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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, who rules the raging of the sea, thank You for the gift of freedom. We are grateful for a nation where we can speak, vote, and worship as we wish. May we never take liberty's blessings for granted but remember our accountability to You to be responsible in our thoughts, words, and actions.

Use our Senators to preserve our freedoms. Let integrity be the hallmark of their characters, individually and corporately. Fill their hearts with Your unalterable, undiminishing, and unending love.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 1, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the surface transportation bill.

ORDER OF PROCEDURE

As I indicated last night, I now ask unanimous consent that there be 90 minutes of debate equally divided and controlled prior to the vote in relation to the Blunt amendment; that all other provisions of the previous order remain in effect; and that the time Senator MCCONNELL and I use prior to the vote not count against the 90 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. The vote will be somewhat after 11:00, but it shouldn't be long after 11:00. We hope that when we get rid of this amendment, we will be able to make an agreement with the Republicans on moving forward on this bill. We have been unsuccessful in doing that to this point.

SURFACE TRANSPORTATION ACT

Mr. REID. Mr. President, too often cooperation is in short supply here in the Senate, so I was pleased when we began consideration of a truly bipartisan jobs bill.

As I have said here a number of times in the past week or so, if there were ever a bipartisan bill, this is it. Progressive BARBARA BOXER, conservative JIM INHOFE—they have agreed on a way to move forward on a bill that will save 1.8 million jobs and create about 1 million more jobs. So this would put millions of people to work right away.

Although our economy has gained momentum, there are still millions of Americans out of work, so it should be obvious why we can't afford to delay efforts to rebuild our roadways, our railways, and our bridges.

Almost 1,000 organizations, including business groups and labor unions that rarely see eye to eye on anything, support this commonsense measure. More than 30 of those groups, including the U.S. Chamber of Commerce and the American Automobile Association, AAA, have asked Senators to refrain from offering unrelated, ideological amendments to this bill. As I said, almost 1,000 organizations want this done.

Here is what the U.S. Chamber and AAA wrote recently:

The organizations that we represent may hold diverse views on social, energy, and fiscal issues, but we are united in our desire to see immediate action on the Senate's bipartisan highway and transit reauthorization measures.

We started on this piece of legislation on February 7. It is the first day of March now. These groups don't agree on much, but they do agree this legislation is too important to be bogged down with political amendments, so they spoke as one.

There was a time when this kind of cooperation was the standard in the Senate. There was a time when two Senators who had little in common could still share common purpose. There was a time when groups of Senators divided by political party could still be united in their desire to pass worthy legislation.

One Senator who has always exemplified that willingness to set aside philosophical and political differences and work together is my friend, the senior

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Senator from Maine, OLYMPIA SNOWE. I have always appreciated Senator SNOWE's ability to look at every side of an issue with a practical eye and not a political eye. Her courage, common sense, and moderation will be missed here in the Senate.

Over the last 15 years, I have had the pleasure of working many times with Senator SNOWE on an issue now at the forefront of this debate, both across the Nation and on the Senate floor. Beginning in 1997, we worked together to increase women's access to contraception and to make sure insurance companies treated contraceptives the same as other prescription medications. There are plenty of things on which Senator SNOWE and I disagree, lots of things, but by finding common ground, we improved women's health and reduced unintended pregnancies—something we should all agree on—and there is no question that it was accomplished by what we did legislatively. Unfortunately, the bipartisan progress Senator SNOWE and I made over the years is now under attack.

Today the Senate will vote on an extreme ideological amendment to the bipartisan Transportation bill. This amendment takes aim at women's access to health care. It will allow any employer or insurer to deny coverage for virtually any treatment for virtually any reason. I repeat: It will allow any employer or insurer to deny coverage for virtually any treatment for virtually any reason. I was pleased to hear that Senator SNOWE intends to oppose this measure. I read that last night.

Although the amendment was designed to restrict women's access to contraception, it would also limit all Americans' access to essential health care. Here are just a few of the lifesaving treatments employers could deny if this amendment passes. This is hard to comprehend, but here is what some of them would be: mammograms and other cancer screenings, prenatal care, flu shots, diabetes screenings, childhood vaccinations.

To make matters worse, Republicans held up progress on an important jobs bill to extract this political vote. As the economy is finally moving forward a little bit, Republicans have tried to force Congress to take its foot off the gas. Every Member of this body knows the Blunt amendment has nothing to do with highways or bridges or trains or train tracks. This amendment has no place on a transportation bill, but with 2 million jobs at stake, the Senate cannot afford to delay progress on a job-creating measure any longer, so Democrats have agreed to vote on Senator BLUNT's amendment so we can hopefully move on. Once the Senate disposes of this partisan political amendment, I hope we will be able to resume in earnest bipartisan work on a transportation bill.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

RELIGIOUS FREEDOM

Mr. MCCONNELL. Mr. President, I have spent a lot of time in my Senate career defending the first amendment. Most of that time, I focused on the part that deals with free speech. But recent actions by the Obama administration related to the President's health care law have prompted many of us here and many across the country to stand in defense of another freedom that is covered in the first amendment; that is, religious freedom.

Let me say at the outset that most of us didn't expect we would ever have to defend this right in a body in which every one of us is sworn to uphold and defend the U.S. Constitution. Most of us probably assumed that if religious liberty were ever seriously challenged in this country, we could always expect a robust, bipartisan defense of it—at least from within the Congress itself. But, unfortunately, that is not the situation in which we find ourselves.

Democrats have evidently decided they would rather defend a President of their own party regardless of the impact of his policies. So rather than defend the first amendment in this particular case, they have decided to engage in a campaign of distraction as a way of obscuring the larger issue which is at stake.

If Democrats no longer see the value in defending the first amendment because they don't think it is politically expedient to do so or because they want to protect the President, then Republicans will have to do it for them. And we are happy to do that because this is an issue that is greater than any short-term political gain; it gets right at the heart of who we are as a people, and we welcome the opportunity to affirm what this country is all about.

What makes America unique in the world is the fact that it was established on the basis of an idea, the idea that all of us have been endowed by our Creator with certain unalienable rights—in other words, rights that are conferred not by a King or a President or certainly a Congress but by the Creator Himself. The State protects these rights, but it does not grant them, and what the State doesn't grant, the State can't take away.

The first of these rights, according to the men who wrote the U.S. Constitution, is the right to have one's religious beliefs protected from government interference. The first amendment couldn't be clearer on this point. The government can neither establish religion nor can it prevent its free exercise. And if the free-exercise-of-religion clause of the first amendment means anything at all, it means it is not within the power of the Federal Government to tell anybody what to believe or to punish them for practicing those beliefs. Yet that is precisely what the Obama administration is trying to do through the President's health care law.

We all remember then-Speaker PELOSI saying that we would have to pass the health care bill to find out what was in it. Well, this is one of the things we found: It empowers bureaucrats here in Washington to decide which tenets religious institutions can and can't adhere to. If they don't get in line, they will be penalized.

According to congressional testimony delivered this week by Asma Uddin of the Becket Fund for Religious Liberty, this is not only unprecedented in Federal law but broader in scope and narrower in its exemption than the 28 State mandates that some have pointed to in the administration's defense.

Moreover, even in States with the strictest mandates, religious institutions can still either opt out of State-level mandate or self-insure. But if they try that now, they run into this new Federal mandate, making it impossible for the first time for religious institutions to avoid punishment for practicing what they preach.

Some of the proponents of this mandate say that in this case, we should just ignore the first amendment. That is what the proponents are saying—in this particular instance, just ignore the first amendment. They say that certain religious beliefs in question aren't particularly popular, so they don't really deserve first amendment protection. But isn't that the entire point of the first amendment—to protect rights regardless of who or how many people hold them? Isn't that the reason people came to this country in the first place, as a refuge from governments that said they had to toe the majority line?

Some of the proponents of this mandate have also said they are willing to offer a so-called compromise that would respect what they call the core mission of religious institutions. But here is the catch: They want to be the ones to tell these religious institutions what their core mission is. The government telling the religious institution what the core mission is—that isn't a compromise; that is another government takeover, only this time it isn't the banks or the car companies, it is religion.

Who do you think has a better grasp of the mission of the Catholic church, the cardinal archbishop of New York or the President's campaign manager? Who are you going to listen to on the question of whether this mandate violates freedom of religion, the president of one of the largest seminaries on the planet, R. Albert Mohler, or some bureaucrat in Washington? The question answers itself.

Look, this is precisely the kind of thing the Founders feared. It was precisely because of the danger of a government intrusion into religion, like this one, that they left us the first amendment in the first place, so that we could always point to it and say: No government—no government, no President has that right. Religious institutions are free to decide what they believe. And the government must respect their right to do so.

And remember: as many of us said during the debate on the President's health care bill, this is just the beginning. If the government is allowed to compel people to buy health care, it won't stop there. Now, it is telling people what their religious beliefs are and what their religious practices ought to be. I wonder What is next?

Let's be clear: this is not about any one particular religion.

It is about the right of Americans of any religion to live out their faith without the government picking and choosing which doctrines they are allowed to follow. When one religion is threatened, all religions are threatened. And allowing this particular infringement would surely ease the way for others.

This is something my constituents understood immediately in this debate.

I have received a lot of letters from religious leaders and concerned citizens who know that an attack on the beliefs of one religion is an attack on the beliefs of any religion. And many of them make the case a lot better than I can. So I'd like to just share for a moment some thoughts from my constituents on this issue.

I will start with the Catholic Archbishop of Louisville, Archbishop Joseph Kurtz. Here's what he wrote:

The federal government, which claims to be ''of, by, and for the people,'' has just dealt a heavy blow to almost a quarter of those people—the Catholic population—and to the millions more who are served by the Catholic faithful. In so ruling, the Administration has cast aside the First Amendment to the Constitution of the United States, denying to Catholics our nation's first and most fundamental freedom, that of religious liberty. We cannot—we will not—comply with this unjust law. People of faith cannot be made second class citizens.

Here's Bishop Ronald Gainer of the Catholic Diocese of Lexington:

Civil law and civil structures should recognize and protect the Church's right and obligation to participate in society without expecting us or forcing us to abandon or compromise our fundamental moral convictions. If we have an obligation to teach and give witness to the moral values that should shape our lives and inspire our society, then there is a corresponding obligation that we be allowed to follow and express freely those religious values. Anything short of government protection of that freedom represents an unwarranted threat of government interference. . . .

Here is the President of the University of the Cumberlands, Jim Taylor:

The intrusion of the administration into the right of the free exercise of religion is disappointing. The choice to interfere with religious hospitals, charities and schools with a mandate violating their religious views is disconcerting and will, in all probability, be totally counterproductive, further polarizing this nation.

And, finally, I want to read a letter from Dr. R. Albert Mohler, Jr. I mentioned him earlier. He is the President of the Southern Baptist Theological Seminary, the flagship school of the Southern Baptist Convention and one of the largest seminaries in the world. I am going to quote it in full.

I write to express my deepest concern regarding the recent policy announced by the Department of Health and Human Services that will require religious institutions to provide mandated contraceptive and abortifacient services to employees.

This policy, announced by Secretary Sebelius, tramples upon the religious liberty of American Christians, who are now informed that our colleges, schools, hospitals, and other service organizations must violate conscience in order to comply with the Affordable Care Act. The religious exemption announced by the Obama Administration is so intentionally narrow that it will cover only congregations and religious institutions that employ and serve only members of our own faiths.

This exemption deliberately excludes Christian institutions that have served this nation and its people through education, social services, and heath care. The new policy effectively tells Christian institutions that, if we want to remain true to our convictions and consciences, we will have to cease serving the public. This is a policy that will either require millions upon millions of Americans to accept a gross and deliberate violation of religious liberty, or to accept the total secularization of all education and social services.

Christians of conscience are now informed by our own government that we must violate our convictions on a matter of grave theological and moral significance. This is not a Catholic issue. The inclusion of abortifacient forms of birth control such as so-called emergency contraceptives will violate the deepest beliefs of millions upon millions of Christians, along with Americans of other faiths who share these convictions. The religious objections to this policy are rooted in centuries of teaching, belief, and moral instruction.

This policy is an outrage that violates our deepest constitutional principles and tramples religious liberty under the feet of deliberate government policy. As many religious leaders have already indicated, we cannot comply with this policy. The one-year extension offered by the Obama Administration is a further insult, providing a year in which we are, by government mandate, to prepare to sacrifice our religious liberties and violate conscience.

I, along with millions of other Americans, humbly request that the Congress of the United States provide an immediate and effective remedy to this intolerable violation of religious liberty. Please do not allow this abominable policy to stand. The protection of our most basic and fundamental liberties now rests in your hands.

I will conclude with this: if there is one good thing about this debate, it is that it has given all of us an opportunity to reaffirm what we believe as Americans. It gives us an opportunity to stand together and to say, this is what we are all about. This is what makes America unique, and this is what makes it great.

That is why I will be voting in favor of the Blunt amendment.

And that is why it is my sincere hope that the President and those in his administration come around to this view too—that they come to realize from the outpouring we have seen over the past several weeks from across the country that the free and diverse exercise of religion in this country has always been one of our nation's greatest assets and one of the things that truly sets us apart. As I said at the outset of this debate, I hope the President reconsiders this deeply misguided policy and reverses it. It crosses a dangerous line. It must be reversed. But if he doesn't, either Congress or the courts will surely act.

STORM DAMAGE IN KENTUCKY

Mr. President, I wish to say a few words about another matter related to my own State. We have had severe storms and tornadoes that cut through parts of the Midwest yesterday, including in my home State of Kentucky. People across the Bluegrass State are still recovering this morning from the considerable damage caused by the severe weather.

The National Weather Service has confirmed 4 tornadoes struck in Kentucky with winds of up to 125 miles per hour. These funnel clouds were sighted in Elizabethtown, eastern Grayson County, Larue County, and near downtown Hodgenville, which is home to the Abraham Lincoln Birthplace National Historic Park.

In all, the National Weather Service has confirmed at least 16 tornadoes across the country through seven States—Nebraska, Kansas, Missouri, Illinois, Tennessee, Indiana, and Kentucky. Over 300 reports of severe weather across the region describe frightening details such as wind gusts of over 80 miles per hour, and golf-ball sized hail stones.

There were reports of power outages for thousands of people across Kentucky, particularly in my hometown of Louisville, the towns of Elizabethtown and Paducah, and in Muhlenberg and Grayson counties. Downed power lines and flash flooding were reported across the State.

News reports and accounts from my own staff tell me that there has been considerable damage across Kentucky, including dozens of homes and businesses damaged and several people injured. Two people in McCracken County near Paducah were rescued from an overturned mobile home and rushed to the hospital in critical condition. From what we know at this point, however, thankfully it appears no lives were lost in Kentucky.

Unfortunately, the same cannot be said elsewhere, as the severe weather that raged through 6 other States has reportedly claimed at least 12 lives. I join my colleagues from the affected States in keeping in my thoughts today all those affected by these storms, especially the families of those lost in these tragic and unforeseeable circumstances.

I also want to extend my gratitude to the first responders in Kentucky and across the entire Midwest who have risen to the occasion and provided the much-needed response and relief. Let me particularly thank the Kentucky National Guard, who is there to assist, as always, when disaster strikes.

Authorities are warning us that the threat from severe weather is not over. More storms are expected today in Alabama, Tennessee and again in my home State of Kentucky.

We will continue to keep a close eye on Kentucky and other States in the affected region, and make sure people have everything they need to clean up, rebuild, and reclaim their dignity from the wreckage of this tragedy.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1730, of a perfecting nature.

Reid (for Blunt) amendment No. 1520 (to amendment No. 1730), to amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 90 minutes equally divided and controlled between the two leaders or their designees.

The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I rise in strong, passionate support of the Blunt amendment. It is a very important amendment which we will be voting on as an entire Senate at 11 a.m. this morning.

The Blunt amendment is an absolutely necessary measure to fix what is a very egregious overstepping of the bounds of government in terms of the newly articulated ObamaCare mandate on religion. As we all know through the debate and discussion of the last several weeks, the Obama administration has made it clear that everyone, including persons of faith, including religious institutions, are not only going to be forced to buy a product in the marketplace—and many of us think that itself is unprecedented and unconstitutional—but it gets worse because they will be forced to buy a product in the marketplace that violates their conscience, that violates their core beliefs.

Catholics and many other Christians, many people of faith, do not believe in certain activity and treatment that is mandated now to be covered by this mandatory insurance. That is crossing a line we have never before crossed in this country, in terms of government power, government mandates, and government intrusion into the conscience of others and to the free exercise of religion. We absolutely need to fix this.

This is a fundamental conscience issue. This is a freedom of religion issue. That is exactly why it is so important.

Let me also clarify, this is not merely about contraception. Folks on the other side of the debate and most of the media constantly put it merely in those terms. First of all, those measures in and of themselves violate the conscience of many Americans. But, second, it is not just about that, it is about abortion, it is about abortion-inducing drugs such as Plan B, it is about sterilization. Clearly, the government mandating Americans to buy, to pay for, to subsidize these measures violates the conscience of tens and tens of millions of Americans. That is why we must act, hopefully today, starting today, by passing the Blunt amendment.

The arguments made on the other side, when we look at them carefully, do not hold water. First of all, there is President Obama's so-called accommodation, so-called compromise, which is not an accommodation and is not a meaningful compromise at all. What did he say? He said: OK. We are not going to make Americans, persons of faith, religious institutions buy coverage they have moral qualms with. We are merely going to make the insurance provider provide that coverage whether the customer wants it or not. Well, that is a completely superficial and completely meaningless word game. The insurer is providing this how? What payment is supporting it? The only payment the insurer is getting is from a customer who objects to the coverage. So who is supporting it? Who is paying for it? Clearly this is a word game. If it weren't clear enough for the typical person or institution involved, what about institutions—and there are many of them—which are self-insured? What about the University of Notre Dame, Catholic University, or Catholic institutions? They don't go to an insurance company to buy insurance; they are self-insured. That word game doesn't even work on the surface there. Those cases number in the hundreds or thousands around the country, and that is a clear example of how that so-called compromise or accommodation is merely a sleight of hand and a word game.

Another argument which the other side has made in this debate is that somehow correcting this situation through the Blunt amendment or through similar measures will shut down access to these services. That is patently not true. These services, these medicines, and other treatments are widely available in every community across the country at little cost or no cost for folks who cannot afford it, and that is not going to change. It is absolutely not necessary to tear away religious liberty and violate conscience rights of millions of Americans with that argument in mind. It isn't true.

That is why respected religious leaders, such as Cardinal-designate Timothy Dolan, president of the U.S. Conference of Catholic Bishops, has argued strenuously and passionately against this mandate. Cardinal-designate Dolan said:

Never before has the Federal Government forced individuals and organizations to go out into the marketplace and buy a product that violates their conscience. This shouldn't happen in a land where free exercise of religion ranks first in the Bill of Rights.

And so that is what it comes down to, free exercise of religion and fundamental conscience protection. The first amendment to the Constitution, the first item in the Bill of Rights, it doesn't get much headier or more significant than that, and that is what this is all about. Again, it is all about, yes, contraception, but abortion, abortion-inducing pills like Plan B, and sterilization.

Mr. President, please assure me that the free exercise of religion is not now a partisan issue. Please assure me that we are going to correct this situation and not allow this egregious overstepping of the bounds of the power of government. We must act to stop this grave injustice, and I hope we start that process in a very serious way today by voting positively and passing the Blunt amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we are engaged in the business of the Senate, and it is not always discernible that it is the business of the people. What we see taking place these days is a principle mantra of Republicans on the campaign trail seeking more freedom for the American people. The Republicans like to say they ''don't want government interfering in people's lives.'' Then I ask: Why the devil are we debating a Republican amendment that limits a woman's freedom to make her own health care choices? With women, the Republicans have a different idea about freedom. They want government to interfere in the most personal aspects of women's lives.

The amendment offered by the Senator from Missouri, the Blunt amendment, will allow a woman's employer to deny coverage for any medical service that they, the employer, have a moral problem with. Imagine that. Your boss is going to decide whether you are acting morally. The Republicans want to take us forward to the Dark Ages again when women were property that they could easily control and even trade if they wanted to. It is appalling that we are having this debate in the 21st century.

Yesterday we heard something astounding. It came from Rush Limbaugh, who is a prime voice of modern conservatism in this country. Yesterday he said—and I had it checked because I wanted to be sure that I am not misquoting anything—that a woman who wants affordable birth control is ''a prostitute.'' Talking

about your wife, your sister, your daughter, your child. This is hateful, ugly language, and we condemn it. Republicans like to talk about the Constitution and freedom, but once again, when it comes to women, they don't get rights, they get restrictions. This foul amendment before us tells women that you cannot be trusted to make your own health care decisions. Your employer may judge if your actions are moral. More than 20 million women in America—including more than 600,000 in my home State of New Jersey—could lose access to health care services they need under this scheme.

The Republican attack on women is not just happening here in Congress, it is happening on the Presidential campaign trail. I show you here what one of the two leading Republican Presidential candidates has to say about birth control:

I'm not a believer in birth control . . . I don't think it works. I think it's harmful to women. I think it's harmful to our society . . .

That is the kind of judgment they want to put in employers' hands? It is outrageous. Imagine that in a Presidential contest, dismissing the kinds of things that millions and millions of women rely upon to protect their health, to keep them from unwanted pregnancies, to keep them from disease, to keep them from all kinds of things that can make life difficult.

Women of America, former Senator Santorum and Republicans here almost require a tap on the head: Don't worry. We know what is best for you.

I want to be clear: Rick Santorum does not have a physician's training. He is a politician. And when we look at polls across the country, we see what the people in our society are thinking about politicians these days. It is time for Senator Santorum and his fellow Republicans to mind their business. Let's get on with the needs of the country and put people back to work, give them health care, and let them have an education. No, we are going to spend time here keeping people from going to work. There are thousands of jobs that are at stake on the legislation that is in front of us.

I have five daughters and eight granddaughters and the one thing that I worry about for them, more than anything else, is their health. I want to know when I see those little kids—the youngest of my grandchildren—I like to see their happy faces; I like to see them feeling good. And if one of my daughters or my son says so-and-so has a cold and this one fell and broke something, that is my worry for the day. That is the way it is. So I want them to have doctors making decisions, not some employer who has a self-righteous moral view that he wants to impose on my daughters, my granddaughters, or my wife. No, I don't want Republican politicians making decisions about my family's health care or yours or even those who are on the other side.

On our side of the aisle, we believe that women are capable of making their own health care decisions, and that is why President Obama is trying hard to make contraception more affordable because he knows it is basic health care for women and almost all women of age have used birth control at some point in their lives, and yet many have to struggle to pay for it. We ought to applaud President Obama for trying to make it more affordable. He believes they are capable of making their own decision. He wants them to be healthy. His proposal respects the rights of religious organizations that don't wish to provide birth control to their employees. Under the President's plan, women who work for religious organizations don't have to go through their employer to get affordable contraception. These women will be able to get it directly from their insurance company, and I think it is a reasonable compromise. But some of our Republican colleagues refuse to recognize this.

Listen to what the other side is saying. You don't hear the Republicans talking about empowering women or giving them more opportunities. No, the GOP agenda is about denying benefits, restricting access, and taking away options.

We weren't sent here to intrude in the lives of fellow citizens or to drag women back to the Dark Ages. We were sent here to offer people options, not obstacles. So I urge my colleagues to reject this amendment, hold your head high and say to your family, your daughter, your wife, your sister, your mother: We want you to be healthy. That is our prime issue in life. I ask that my colleagues turn down this amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Mr. President, very shortly we will be voting on the amendment filed by my colleague from Missouri, Senator BLUNT—the Respect for Rights of Conscience Act. I am a cosponsor of this amendment, and I think we all ought to be cosponsors of it. Many of my colleagues have supported it as well, and for good reason. It provides statutory protection for one of our deepest constitutional commitments—the right to free exercise of religion. It is an effort to fulfill our oath to protect and defend the Constitution. It is an effort to put the enduring constitutional rights of the American people first, over any fleeting and controversial political interests.

In my view, those who support this amendment have been unjustly criticized over the past few days, and they have been unjustly criticized on a political basis, not really on an intellectual basis. Unable to win this debate through a fair criticism of the amendment, it has been mischaracterized and misrepresented.

Opponents are desperate to distract the public from one simple fact: This amendment is necessary because of ObamaCare, the health care law that manifests new threats to personal liberty and individual rights with each passing week. It is an indictment of the President's signature domestic achievement and all of those who support it.

ObamaCare took over and regulated the Nation's health care sector—one-sixth of the American economy. It stripped individuals and employers of their right to go without coverage and the right to determine what type of coverage they would have.

ObamaCare is what has brought us here today. The health care law requires that women's preventive services, including sterilization and access to abortion-inducing drugs, be included in health care coverage beginning in 2012. This is a questionable policy in and of itself. Like the rest of ObamaCare, it assumes the government is able to provide all good things to the American people through a simple mandate with no consequences for cost or access.

The problems with this mandate were compounded, however, when the administration, deferring to its feminist allies, determined that the mandate would apply to religious citizens and institutions. To their credit, these institutions, which are compelled by this regulation to violate their moral beliefs, announced that they would not comply with this unjust law. They refused to roll over and allow the government to force them to provide sterilizations and abortion-inducing drugs to their employees. They stood as a witness for constitutional liberty, the free exercise of religion, and against an administration that put basic partisan politics above our beloved Constitution.

The President's self-proclaimed compromise does absolutely nothing to minimize the constitutional problems with this mandate. The Department of Health and Human Services never—never—consulted with the Department of Justice about the constitutionality of this mandate, and it shows. That is why we are here today: to undo just some of the damage to our liberty and our Constitution wrought by ObamaCare.

All of the misleading arguments regarding this amendment run square to one simple fact: ObamaCare only became law in 2010. There was no Federal mandate for these services prior to 2010, and the regulations have not yet gone into effect. In other words, nobody is taking anything away from anybody. But to hear the other side talk, one would think the cosponsors of this amendment and the groups who support it are committed to a monstrous deprivation of women's rights. With due respect, that is absolute hogwash.

I appreciate that the advocates of ObamaCare might be embarrassed by this episode, but we are not going to

let them get away with a gross misrepresentation of what we are trying to do here.

Prior to 2010 and the partisan passage of ObamaCare, access to contraceptives was abundant and nobody advocated that the Federal Government involve itself in those personal, moral decisions. After 2010, access to contraceptives remained abundant, with nobody advocating for restrictions on their access.

Here is what changed in the meantime. In 2010, ObamaCare mandated that health coverage include sterilizations, abortion-inducing drugs, and contraceptive coverage. As a result, religious institutions and persons will now be compelled by the State to violate their conscience—compelled by the Federal Government to violate their conscience. It isn't just the Catholic Church; it is many churches that feel just the same way as the Catholic Church does. It is a moral and religious issue that should not be interfered with by the Federal Government.

Prior to 2010 and the passage of ObamaCare, the first amendment was intact. Today, the first amendment is in tatters. The Democrats who passed this law know this to be true, so they have to distract and confuse. They claim Senator BLUNT's amendment is overbroad. They claim religious institutions and individuals would deny critical health services, such as blood transfusions and psychiatric care. The Senate Democratic steering committee claims 20.4 million women who are now receiving coverage for preventive services would lose that coverage under this amendment. Absolutely none of this is accurate.

Again, all this amendment does is restore the pre-ObamaCare status quo. All it does is restore the religious liberties and constitutional freedoms that existed prior to this government takeover of our Nation's health care system. It restores the conscience protections that existed for all Americans for the past 220 years.

If this amendment passes, here are a few things that do not change: State mandates for health coverage will remain in place. Title VII of the Civil Rights Act of 1964, preventing discrimination on the basis of race, color, religion, sex, or national origin in employment benefits remains in place. The Pregnancy Discrimination Act, requiring health plans to cover pregnancy, childbirth, and related conditions remains in place. The Americans With Disabilities Act prohibiting s discriminatory withholding of health care and other benefits for people with HIV or other disabilities remains in place. And the Mental Health Parity Act of 2008 requiring equitable coverage of mental illness remains in place.

Prior to ObamaCare, very few people excluded any of the services that Democrats are pointing at in their efforts to scare the American people, and few will do so should the Blunt amendment pass. But our Constitution demands that those individuals and institutions that object to providing these services on religious and moral grounds be protected. That is what the Constitution demands.

Even though the individuals and institutions protected by the Blunt amendment are a minority, it is that minority that our first amendment exists to protect. The rule agreed to by President Obama would force religious organizations to violate their moral convictions. This cannot be allowed to stand.

I call on my colleagues on the other side to wake up and realize what they are doing. There is only so much politics that should be played around here, and this is an issue we should not be playing politics with. It involves religious freedom and liberty.

There was a time when a regulation of this sort would not have been countenanced by this body, let alone some of the arguments that have been made on the other side—trying to obscure and to make a political issue out of this.

I have had the good fortune of representing the people of Utah for many years. It has been an honor for me. In that time, I have seen many good people on both sides of the aisle serve well in the Senate. One thing we could always be sure of was that when it came to our first amendment freedoms—in particular, the freedom to practice one's religion without interference from the State—Republicans and Democrats would join together in the defense of religious rights and liberty. Why are we not joining together? Yet under this administration, our Bill of Rights has been subordinated to President Obama's desire to micromanage the Nation's health care system.

It was not always this way. When the Senate considered President Clinton's health care law—itself an attempt at a sweeping takover of the Nation's health care system—giants such as Daniel Patrick Moynihan, a Democrat and colleague who served as the chairman of the Finance Committee, stood up for broad conscience protections such as the one we are considering today in the Blunt amendment.

I worked closely with many of my Democratic colleagues in passing the Religious Freedom Restoration Act. I was the author of that bill. We passed it. It overwhelmingly passed. I was there when President Clinton signed it into law. A lot of religious leaders were there and a lot of liberals and conservatives were there who were very happy to pass that law. But, apparently, those days of bipartisanship are laid to rest, and they are long past.

Today the administration ignores the clear dictates of the first amendment and the Religious Freedom Restoration Act.

ObamaCare is unconstitutional to its core. It threatens the liberties announced and protected by our Declaration of Independence. This mandate is just one more example of how the law restricts personal liberty. It will force religious persons and institutions to violate their beliefs or pay a fine.

Defending this disaster at a townhall meeting recently, one Democratic Member of the House of Representatives told her constituents that they were ''not looking to the Constitution'' when they supported this mandate. No kidding. Our Founding Fathers fought a revolution to prevent this type of tyranny; and that is what this is. This is tyranny. It is the political bullying of a religious group with—in the views of the President's allies—unpopular religious beliefs. So for political reasons the religious groups who differ with this are being pushed around. The media, polite society, and the administration are picking on religious freedom and on religious people.

Democrats like to claim they stand for the little guy. Not in this case. In this case, the little guy is being pushed around by the State. I, for one, am not going to stand for it. This is discrimination masquerading as compassion, and I am going to fight it. My oath of office, an oath to protect the Constitution, compels me to do this.

I am putting the administration on notice: I am not done with you, and my colleagues are not done with you. Whatever happens with this vote today, you are going to be held to account for your actions. We are going to get to the bottom of how this happened and, ultimately, I am confident that justice will prevail.

Ultimately, I am confident justice will prevail.

I commend my colleague from Missouri and all of the Members who have spoken out for this amendment. It is reasonable. It is just. I urge all of my colleagues to vote for it.

The American people understand this amendment is necessary because of ObamaCare, and they know who is responsible for this monstrosity. I expect they will look favorably on those who stand up for the first amendment today and attempt to correct their folly by restoring the conscience protections that preexisted ObamaCare. The reaction to those who stand by this historic deprivation of first amendment rights? Only time is going to tell.

Let me close by saying there are very few things that get me worked up as much as I am about this. I feel very deeply about a lot of things, but the first amendment, to me, means everything. I have heard the President say, well, we will just require the insurance companies to provide this. Give me a break. A lot of Catholic institutions are self-insured, and that is true of other churches as well.

Religious beliefs are important. The first amendment is important. The free exercise of religion is important. That is what is involved here.

My gosh, to hear these arguments that this is all about contraception—that is not what it is about. It is about the right of people with religious beliefs to practice their religion, unmolested by government.

I want to commend the distinguished Senator from Missouri. It takes guts to stand up on these issues when they are so distorted by some on the other side. I would be ashamed to make some of the arguments that were made on this issue. The Catholic Church, which is the largest congregation in our country, is not going to abide by this mandate. And I am 100 percent with them.

When we start going down this road, let me tell you, beware, because that is when tyranny begins. The religious commitments of our Nation have made it the greatest Nation in the world. I have to tell you, those of you who vote against this amendment are playing with fire. Those of you who vote against this amendment are ignoring the Constitution. Those of you who vote against this amendment are wrong.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. BENNET. Mr. President, I want to, since he is on the floor, recognize the Senator from Utah and his extraordinary service in the U.S. Senate. We do not agree on this issue, but he has done a tremendous job for the people of Utah over many years.

I rise to talk a little bit about the amendment we are considering that would allow all employers and insurers to deny coverage, particularly for women, on any health care procedure or service they object to—not the women, but the employers and the insurance companies—on moral or religious grounds.

The first thing I want to do—and I have not been around here a long time, but I want to first observe in what context we are discussing and debating this amendment. We have devoted extensive floor time on this amendment about contraception and the lack of coverage for women's health care in the context of a job-creation bill, in the context of the Transportation bill. This is the bill I hold in my hand. This is the bill that is on the floor of the U.S. Senate right now. The title says:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

I would have thought those ''other purposes'' would be related to transportation, transit, to job creation in the United States. I do not think the ''other purposes'' that are talked about in this bill have anything to do with contraception or women's health. But that is what we are spending our time debating this week on the floor of the Senate, instead of passing this Transportation bill and putting people in this country back to work. How is this conversation relevant to job creation or to infrastructure? It is not.

In my home State of Colorado, I have held hundreds of townhall meetings in red parts of the State and blue parts of the State, and I do not remember a single time this issue—the issue that is of concern with this amendment—has been raised by anybody—by anybody—in 3 years.

I can tell you what people are talking about in Colorado. They want to know why we are not spending our time working on how to create more jobs for them, more jobs in the 21st century in this country or how to fix this Nation's debt or deficit or how we pass a bipartisan Transportation bill that creates immediate jobs and fixes a crumbling infrastructure, while maintaining the infrastructure assets our parents and grandparents had the thoughtfulness to build for us—another case where political games are risking our ability to provide more opportunity, not less, for the next generation of Americans, something every single generation, until this one at least—the politicians—has treated as a sacred trust. Instead, over the last several weeks, we have continued to debate about women and whether they should have access to the health care services they need, and whether they should be the ones who are able to make the decisions about the health care services they need. And we sit here and wonder why the U.S. Congress is stuck at an approval rating of 11 percent. Maybe it is because we are talking about contraception in the context of a Transportation bill.

I have a wife and three daughters—12, 11, and 7. There are a lot of women in my life telling me what to do every minute of every day and during the week, and thank goodness for that. One thing I know is they do not need to be told by the government how to make their own health care decisions—nor do the 362,000 Colorado women who would be affected immediately if this amendment passed.

This amendment is written so broadly that it would allow any employer to deny any health service to any American for virtually any reason—not just for religious objections. Women could lose coverage for mammograms, prenatal care, flu shots, to name only a few essential services, and, yes—and yes—the right to make decisions around contraception and their own reproductive health.

My State, the great State of Colorado, is a third Democratic, a third Republican, and a third Independent. I can tell you, the last time there was an initiative on the ballot in my State to let the government intervene in women's health care decisions, it was defeated by 70 percent of the voters. Seventy percent of the voters said: You know what. We would rather leave these decisions to women to make for themselves. That is what my daughters want as well.

People are speaking loudly and clearly on this issue all across the country. These are not the issues we should be debating right now. We need to be having the conversations people are having at home in my townhalls instead of distracting them with politics: How do we create more jobs? How do we reform our entitlements so Medicare, Medicaid, and Social Security are here for our grandchildren and for our children? How do we create an education system that is training our people for the 21st century? How do we assure poor children in this country that they can have a quality education and make a contribution to this economy?

So I urge my colleagues to oppose this amendment and help us get back on the road to passing a bipartisan Transportation bill that will create new jobs and make substantial improvements in our economy and infrastructure. There is a time to debate this, but that time is not now when we are having this infrastructure discussion, we are having this transportation discussion.

I urge my colleagues to support the rights of women all across this country and their families and reject this amendment.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BLUNT. Mr. President, the reason this amendment is being debated right now is because the administration issued an order that is unprecedented. It is unprecedented because the mandate provisions of the health care bill are also unprecedented. That is the reason we are debating this now. The administration brought this up. I am still amazed by the fact that the administration would not have excluded all of at least the faith-based institutions from their order.

The Catholic hospitals, the Baptist universities, the Catholic schools of all kinds, the Christian schools of all kinds, the Muslim daycare centers—why would they not have exempted these people? They say: We exempted the church itself, as if the work of the church or the character of the church or the faith distinctives of the church, the synagogue, the mosque are only what happens inside that building.

There is a reason we have so much of our health care, our social services provided by faith-based institutions, and one of the reasons is those faith-based institutions want those institutions—that they fund, they support, they encourage—to reflect their faith principles. What is wrong with that?

There are a couple of issues here. One is the separation in the President's mind of the work of the church or the synagogue or the mosque from the building itself. It is impossible to separate those two things; otherwise, you have another high school that has a chaplain, you do not have a Christian high school or you have another hospital that is run by the Sisters of Mercy, you do not have a Catholic hospital, because you have decided you are going to define the character of what that hospital stands for and what they provide.

The administration recently took a Lutheran school to court. The EEOC took a Lutheran school to court and asserted that school did not have any special constitutional protections as to how they hired people, and you could have heard all these same kinds of arguments: Well, they will discriminate

against people; they will not hire people who otherwise should be hired; they will not make accessibility to the handicapped. You could hear all of that sort of thing, none of which would have been true, and the Supreme Court voted 9–0 that the administration was wrong.

You can try all you want to separate these two issues, but they do not separate. They are both fundamental first amendment issues.

Let's talk about some of the things I have heard here this morning. My good friend, Senator BENNET from Colorado, said if this amendment passed, 362,000 Colorado women would lose their current health care services. Why would that be the case at all? This amendment does nothing to modify State or Federal laws that are now in effect. If you have those services now, there is nothing in this amendment that would change the world we live in right now. People have the same protection today to exert their religious views in their health care policies that they provide as an employer that they would have if this amendment passed. They have those protections now. They would not lose those rights.

It does not modify any State or Federal law. And there are plenty of Federal laws. There is a Federal law on pregnancy discrimination that says pregnancy-related benefits cannot be limited to married employees. That law does not go away if this amendment passes. State laws that require things to be in health care policies, if you have one, do not go away if this amendment passes. It only amends the new mandate provisions of title I of the new health care law, the health care law that has received so much controversial attention, for good reason. And this is one of those reasons.

Supplying respect for religious beliefs and moral convictions is already part of Federal health programs of all kinds, it just does not happen to be in the new law. There is no health care law since 1973 that does not have these provisions in this bill that are part of the law. The law is there now, and the world does not change. No Colorado woman will lose any health care benefits they have today if this amendment passes. No New Jersey woman will lose any benefits they have today if this amendment passes.

Regarding any health care service people may be worried about, we asked one question: Are people allowed to exclude this service from their health care benefit under current State or Federal law? If they are not allowed to exclude it under current State or Federal law, they would not be allowed to exclude it if this amendment passes. If they are not allowed to exclude it, they are still not allowed to exclude it under this amendment. And if they are allowed to exclude such service, why haven't the critics been protesting before? This amendment does not change anything in the law today. So why haven't we heard these speeches before about how the law does not protect employers from deciding not to offer this or not to offer that? In fact, this makes it much more difficult to exclude services than it is now.

In fact, it allows for an actuarial equivalent to have to be added to a policy if you take something away. That means there is no financial reason—there is no financial reason—to exclude a service because if you exclude a service because you believe it is the wrong thing, the Secretary of Health and Human Services has the power to say: You have to come back and include a new service of equal value that we did not require.

I assume everybody on the other side of this debate would think that employers must be motivated to exclude these services if they are not legitimate religious beliefs and moral conviction; that they must exclude them because they would save some money. We do not allow them to save money. So there is no reason. The Secretary of Health and Human Services can say: OK. You can exclude that, but you have to include something we did not require something of equal value. That means something that is going to be equally used. That means something that is going to be equally costly to the employer.

Why would the employer do that? I mean, why are we not hearing all these stories now about how—why did the 200,000 women who have these health services today—I think it is 20 million—why do they have those services? There is nothing in the law that requires it. This law does not change the laws today.

From the point of view of having a political discussion instead of a discussion about what the amendment does or why it is consistent with what we have always done, I think the other side has done a great job of that. But consistently we have protected this principle of first amendment freedoms. In fact, in 1994, in the bill Mrs. Clinton, the First Lady at the time, worked so hard for, that was introduced by Senator Moynihan—here is what it said. This was the bill that also would require people to provide insurance. You know we do not have much about insurance because we have not required people to provide it before. There are some Federal health benefits about insurance I may talk about in a minute that also are protected.

But this was a bill that required people to provide insurance, and Senator Moynihan said about his bill in 1994, less than 20 years ago, ''Nothing in this title shall be construed to prevent any employer from contributing to the purchase of a standard benefits package which excludes coverage for abortion and other services if the employer objects to such service on the basis of religious belief or moral conviction.''

The most amazing aspect of this whole debate, to me, is that in 20 years, this has gone from language that would be in what was considered the most progressive, liberal health care bill that had ever been offered, by one of the most respected Senators by Americans of all political philosophies but most agreed with by Americans of the more liberal political philosophy, that he would just put that in the bill—I have asked: Is there any indication in the debate on that bill that this was a big item? The answer I hear is: No, it was not a big item because it was part of who we are. It was part of what we had been as a nation. It was part of protecting the first amendment.

This amendment does not mention any procedure because I do not know what kind of—and nobody knows what might be, at some future date, offensive to somebody's religious beliefs, but they have no financial reason to not provide a service. So the only reason they would have under this amendment would be a true moral objection.

I had some initial hesitation myself. I said: OK. I understand the faith-based institutions. I used to be the president of a Christian university and so I understand why it is important those institutions keep their faith-based distinctions. But what about other employers? Frankly, I did not have to think about that very long to realize that if someone is of a faith that believes something is absolutely wrong, as an employer why would they want to pay for that? They believe this is a wrong thing to do. Why would they want to pay for that?

The language of equivalency in this bill means, if they choose not to pay for that, the Secretary can say: OK. Come up with something else that would be equally used and equally valuable that they would pay for. So there is no financial reason not to do it. The only reason not to do it is they truly believe it is a wrong thing to do.

Surely, every person in the Senate has at least one thing that because of religious reasons they believe is wrong to do. Do they want to be forced by the government to be a participant in that wrong thing? The things we are talking about, in my particular faith, I am not opposed to all these things the President said he would require. But that does not mean I should be any less concerned about people who legitimately, week after week at their place of worship, express this to be something that they would not participate in.

If the congregants want to go on their own and figure out how to participate, that is one thing. If they want to go on their own and provide insurance to their employees that include these things that they heard at church are wrong to do, that is another thing. But if they want to say, look, I am not going to do that—but under the new mandate, we do not do anything that eliminates the mandate. There is still a mandate—under the new mandate, I am not going to do that, but I am going to have to add something to the policy to the mandate that would be of equal financial value, of equivalent value.

So the only reason to object is they believe it is wrong, and that what the first amendment is all about. That is why, consistently, through employment law we have protected—even though the administration lost a 9-to-0 case trying to interpret that the same way they want to interpret this—the government knows best. If we are allowed to, we will abuse the hiring situation. Now they say if we are allowed to, we will abuse the health care providing situation.

I think we have taken away the financial incentive to do that. I believe what this does is protect first amendment rights. The first freedom in the founding documents is freedom of religion, and we have protected it over and over and over again. Every Member of this Senate who has been here in any recent time, except the very newest Members, have voted for bills that had this language in them, whether it was the Clinton administration, whether it was the Moynihan proposal, whether it was the Patients' Bill of Rights or the religious freedom law. It was all there.

I think it is—to come up with all these cases that they would not treat prenatal care, might not treat cancer—why would they not do that? Why would they not do that? If they do not treat that, they have to pay for something else of equal value. Look at the very last provision of this amendment.

So there is no financial reason not to do this. The only reason is that they believe it is against their religious views. The phrase we use in this bill is exactly the phrase Senator Moynihan used, it is exactly the phrase Frank Church used, it is exactly the phrase people on the floor at this moment voted for when they said we do not want people to have to participate in capital punishment or prosecuting crimes where capital punishment is a possibility because of religious belief or moral conviction.

It was good enough for everything up until now, including this principle, until we get to 2012. Suddenly, we have all these reasons people cannot make faith decisions that relate to providing health care to employees. I disagree with that.

I think the first amendment protects that. I believe if and when—if this rule goes forward, it will go to the Supreme Court. It will be something close to that 9-to-0 decision on hiring rights. There is no difference in the principle. Again, I would say, look at the last section of this bill if one believes employers are going to do this to save money.

Otherwise, what motivation do they have, besides the moral conviction and religious belief that is protected by the first amendment? I hope my colleagues will read this amendment carefully, will understand that protection currently in the law is taken away by this amendment. If one has a right now, one would still have it if this amendment passed. To argue otherwise denies the facts of both people who have coverage today and 220-plus years of constitutional protections in the country.

Read the bill. It may not change any minds today. But this issue will not go away unless the administration decides to take it away by giving people of faith these first amendment protections.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise to join this debate. I certainly respect the Senator from Missouri for his views and for his own interpretation of what he thinks his amendment does. But I could not disagree more on what the amendment says, what the amendment will do, and what the process has been for us to get to this point.

We are down here, and I know my own office, myself, my focus is on our economy and getting our country moving again and focusing on jobs. So when I see a transportation bill that is now mired in this debate, I ask myself: How much more time are we going to waste debating and redebating an issue we have been debating?

I know some people think this is an important debate related to transportation. But it seems as if the other side of the aisle, in all the discussions we have been having for the last year about jobs, about appropriations bills, about the debt ceiling, about moving forward on reconciliation all come down to one thing: Let's get rid of reproductive health care for women.

In February of last year, they introduced a bill, H.R. 1. They said, let's defund Planned Parenthood. Then, later in April, came a big moment of are we going to move forward with the continuing resolution. It was all brought to a halt until we could have a vote on defunding Planned Parenthood. Then we had another vote on it.

In the latest discussions about the payroll deal, there were discussions about whether a rider was going to be in there that cut women's reproductive health care access and appropriations bills, just last December, same issue. Every step of the way it seems as if there is an assault on women's reproductive choice and having access to health care.

I know my colleague from Missouri thinks this issue might just be about something the administration has done in the health care bill, but his party is making everybody in America believe we cannot get our economy going and balance our budget and deal with our deficit unless we defund women's health care choices. Nothing could be more incorrect about that logic.

We are holding up the business of America just for these votes on basically curtailing rights to access that women already have. It is so frustrating to think we would be going backward on this. I applaud the chair of the Transportation Committee because she has worked hard on this legislation. It is 30,000 jobs in the State of Washington by the Department of Transportation estimate.

I know it is going to help save about 1.8 million jobs and create another million jobs on a national basis. So I certainly want to get to the job at hand. When I think about the 435,000 Washington women who would be affected by the Blunt amendment, by curtailing their access to health care, and while some people think it is about contraceptives, which it is about that, but it is also about breast cancer screening—and we have one of the highest rates of breast cancer in the country, so we want to make sure we get these screenings done—about wellness exams, about diabetes screening, about flu shots, about vaccinations, about mammograms, about cholesterol, we are having this debate instead of talking about transportation infrastructure, about defunding these vital programs. The reason why I say this is so important to us and so important to us in Washington State is because we have been having this debate, we have been having this debate since almost 2001, 2002, on the Bartell drug decision.

So my colleague who says: These businesses would not dare do anything based on costs under my amendment, I think all he has to do is look at the Federal cases that were brought against major employers such as Walmart, such as Bartell, such as Daimler-Chrysler, and other organizations that were not providing full reproductive choice for women and discriminating against them in their health care benefits.

A Federal law, a Federal statute was used to say these practices were discriminatory. So the same debate we are having today has played out in State after State—in our State, the Bartell drug decision. In that decision, the courts found we cannot use these principles to discriminate. It is a violation of the civil rights clause.

While I know my colleague thinks this is a new debate, it is not a new debate. It is a debate that has been had in America among States, and courts have used Federal statutes to protect the rights of women. Now I see we are going to have this debate today. I ask my colleagues, how many more times this year are we going to interrupt the business of the Congress on things such as transportation, on infrastructure, to have a debate that has already been settled?

I know my colleague thinks the amendment is very narrowly written; it is not.

It is not. I don't think that is the interpretation of any legal mind, that it is narrowly written. It will affect and give employers the right—the courts have already said they don't have the right to discriminate. It will reopen the cases of those large employers that have already been found against and say to them: Yes, you can come up with a reason and curtail access to preventive health care for women that is so needed at this time.

I ask my colleagues to turn down this amendment, and let's get at the

business at hand, focusing on our economy and jobs, and stop making women's health care a scapegoat for what you think is wrong with America. It is actually what is right with America. Let's focus on jobs.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I have always been a very strong proponent of family planning programs and of measures to promote and protect women's health. Like many Americans, however, I was very concerned in January when the Department of Health and Human Services issued a final regulation to require religious universities, hospitals, charities, and other faith-based organizations to pay for health insurance that covers contraceptives and sterilizations regardless of the organization's religious beliefs. I believe such a mandate poses a threat to our religious freedom and presents the Catholic Church and other faith-based organizations with an impossible choice between violating their religious beliefs or violating Federal regulations.

In February President Obama announced what he termed an ''accommodation'' that would require insurance companies, rather than religious organizations, to provide these services. But as I read the details of that ''accommodation,'' it became very clear to me that many parts of the plan remained unclear. A key issue, for example, revolves around self-insured religious-based organizations. There are many Catholic hospitals and universities that are self-insured and thus act as both the employer and the insurer, and a very important issue is how the rule would treat these self-insured faith-based organizations. But the rule was totally unclear. It simply said that the ''Departments intend to develop policies to achieve the same goals for self-insured group health plans sponsored by non-exempted, non-profit religious organizations with religious objections to contraceptive coverage.''

In an attempt to clarify this critical issue, I sent a letter to Secretary Sebelius asking for specific clarification on how faith-based organizations that are self-insured and thus act as both the insurer and the employer would have their rights of conscience protected. This was not a complicated question. It was a very straightforward question, and frankly, the answer to the question was going to determine my vote on this very important amendment.

Sadly, the administration once again skirted the answer. In her response, Secretary Sebelius simply said the President ''is committed to rulemaking to ensure access to these important preventive services in fully insured and self-insured group health plans while further accommodating religious organizations' beliefs.''

What does that mean, Mr. President?

I ask unanimous consent that both my letter to Secretary Sebelius and her reply be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Ms. COLLINS. Mr. President, this was very frustrating to me. I asked a key question, and I could not get a straight answer. It also demonstrates many of the problems associated with employer mandates.

I believe the sponsor of this amendment is completely sincere. I want to make that clear. But this issue has become yet another sad example of election-year politics. I believe a good compromise could have been reached and should have been worked out. For example, in Maine, State law requiring contraception coverage includes a specific exemption for religious employers, such as churches, schools, and hospitals. Surely we could have reached a similar accommodation. Unfortunately, what we are left with is another example of the political pandering that has so tested Americans' patience.

Since I could not and did not receive a straightforward answer to my question about protecting self-insured faith-based organizations, I feel that I have to vote for Senator BLUNT's amendment, with the hope that its scope will be further narrowed and refined as the legislative process proceeds.

Critics of the Blunt amendment have charged that employers could use it as an excuse to deny coverage for services simply as a means to reduce their insurance costs. As Senator BLUNT, however, has pointed out, the amendment includes specific language to require that the overall cost of the coverage remains the same even though an employer excludes certain services because of their religious beliefs. As a consequence, under this amendment, employers would have no incentive to exclude coverage of items or services simply because of financial considerations.

Mr. President, while I plan to support the amendment, I do so with serious reservations because I think the amendment does have its flaws. But when the administration cannot even assure me that self-insured faith-based organizations' religious freedoms are protected, I feel I have no choice.

I hope that the Senate will now be able to move forward to address the many important and pressing issues facing our Nation such as job creation, energy and rebuilding our nation's infrastructure.

EXHIBIT 1

U.S. SENATE,
Washington, DC, February 24, 2012.

Hon. KATHLEEN SEBELIUS,
Secretary, Department of Health and Human Services, Washington, DC.

DEAR SECRETARY SEBELIUS: Like many Americans, I was very concerned when, on January 20, 2012, the Department of Health and Human Services issued a final regulation to require religious universities, hospitals, charities and other faith-based organizations to pay for health insurance that covers contraceptives and sterilizations regardless of the organization's religious objections. I believe that such a broad mandate poses a threat to our religious freedom and presents the Catholic church and other faith-based organizations with an impossible choice between violating their religious beliefs or violating federal regulations.

I was somewhat reassured when, on February 10, the President announced an ''accommodation'' that would require insurance companies rather than religious organizations to provide these services. According to the White House statement, ''religious organizations will not have to provide contraceptive coverage or refer their employees to organizations that provide contraception,'' and ''religious organizations will not be required to subsidize the cost of contraception.''

While the President has announced some changes in how the new preventive coverage mandate will be administered, many of the details remain unclear. A very important issue is how the rule would treat self-insured faith-based institutions. For example, there are many Catholic hospitals that are self-insured, and therefore act as both the employer and the insurer. The final rule simply states that the ''Departments intend to develop policies to achieve the same goals for self-insured group health plans sponsored by non-exempted, non-profit religious organizations with religious objections to contraceptive coverage.''

I would therefore like further specific clarification of how self-insured faith-based organizations will be treated under the rule to ensure that their rights of conscience are protected.

Thank you for your prompt assistance on this important issue.

Sincerely,

SUSAN M. COLLINS,
United States Senator.

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, February 29, 2012.

Hon. SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: Thank you for your letter regarding the August 2011 Guidelines on Women's Preventive Services. On February 15, 2012, related final rules were published exempting group health plans sponsored by certain religious employers (and any associated group health insurance coverage) from any requirement to cover contraceptive services under section 2713 of the Public Health Service Act and corresponding provisions in the Employee Retirement Income Security Act and the Internal Revenue Code, and related guidance.

As you know, in August 2011, the Health Resources and Services Administration (HRSA) published Guidelines that operate to require non-grandfathered health plans to cover certain preventive services for women, including Food and Drug Administration-approved contraceptive services, without charging a co-pay, co-insurance, or a deductible. HRSA based the Guidelines on recommendations from the Institute of Medicine, which relied on independent physicians, nurses, scientists, and other experts, as well as evidence-based research, to formulate its recommendations. Evidence shows the use of contraceptives has significant health benefits for women and their families, significantly reducing health costs for women and society.

With the Departments of Labor and the Treasury, the Department of Health and Human Services also published in August

2011 an amendment to the July 2010 Preventive Services Interim Final Rules authorizing an exemption for certain religious employers' health plans from any requirement to cover contraceptive services. Twenty-eight states already require health insurance coverage to cover contraception, and the exemption in the amendment to the Interim Final Rules was modeled on one adopted by some of these states. After considering the many comments received in response to the amendment to the Interim Final Rules, the Departments published final rules on February 15, 2012, retaining the exemption.

At the same time, we released guidance providing a one-year enforcement safe harbor for group health plans sponsored by certain nonprofit employers that, for religious reasons, do not provide contraceptive coverage and do not qualify for the exemption (and any associated group health insurance coverage). Such nonprofit employers could include religious universities, hospitals, and charities.

In his recent announcement related to these issues, the President committed to rulemaking to ensure access to these important preventive services in fully insured and self-insured group health plans while further accommodating religious organizations' beliefs. We are engaging in a collaborative process with affected stakeholders including religiously affiliated employers, insurers, plan administrators, faith-based organizations, and women's organizations as we develop policies in this area. Our preliminary discussions with a number of religiously affiliated employers and faith based organizations have been very productive. And, of course, the future rulemaking process will afford a full opportunity for public input.

The Administration remains fully committed to its partnerships with faith-based organizations to promote healthy communities and serve the common good.

Again, thank you for your letter. I appreciate your input on this matter.

Sincerely,

KATHLEEN SEBELIUS.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, I ask unanimous consent to speak for up to 5 minutes on the Blunt amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. Mr. President, in Vermont and across this country, there is growing frustration that Members of Congress—mostly men, I should add—are trying to roll back the clock on women's reproductive rights—in this case, the right of women to receive contraceptive services through their insurance plan. This attack is grossly unfair, and I hope men will stand with women in the fight to protect this very basic right.

Let me add my strong belief that if the Senate had 83 women and 17 men rather than 83 men and 17 women, a bill such as this would never even make it to the floor.

Two years ago Congress passed a health care reform bill that will expand health care access for over 30 million Americans who are uninsured as well as millions of Americans who are covered through their employers. This bill is by no means perfect—I would go further—but it is a step forward in allowing us to catch up with the rest of the industrialized world that guarantees health care to all of their people as a right.

Unfortunately, the amendment we are discussing today—Senator BLUNT's amendment—would undermine much of the progress being made for women's health care through a new version of a so-called conscience exemption. Not just content to attack women's rights, Mr. BLUNT's amendment would go even further and seeks to deny patients access to any essential health care service their employer or insurance company objects to based simply on the employer's ''religious beliefs'' and ''moral convictions.''

This amendment would especially have an adverse impact on women's health. Starting in August, women enrolled in new plans will have access to a range of preventive services at no cost. But allowing the kind of extreme, so-called conscience clause included in the Blunt amendment would allow an employer to refuse coverage of contraceptives, annual well-woman visits, or even treatments for both genders, such as mental health services or HIV/AIDS treatment, based not on a doctor's recommendation but on the religious belief or moral conviction of a person's employer. This is an absolutely unprecedented refusal right. The Blunt amendment must be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I ask unanimous consent to speak for up to 8 minutes on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, this is obviously a difficult time in our politics—the polarization. It is a difficult time in the Senate, in particular, because over the years this has been a place where we have prided ourselves on really working to find ways to avoid the kind of polarization we see today and actually to find the common denominator on a number of sensitive issues.

I think our friend from Maine, Senator SNOWE, spoke for many of us this week when she talked about the ''my way or the highway'' approaches to partisan politics that have made it harder for people to work with each other and actually get things done. I would never speak for her, but I think given her diagnosis of what is wrong with the Senate today, she has made a decision not to run for reelection. I think the amendment we are debating today, frankly, is exhibit A.

Two years ago many of us voted to end an era where many Americans felt that women in particular but poor people and others also were put into a position of a second-tier status with respect to access to health care in America. There were so many discrepancies. One example, for instance, that was in error before the reform we passed was where Viagra was covered for men, at no cost, by insurance companies but contraception, which 99 percent of American women use, was not covered. So we addressed this issue in the reform we passed, Congress sent it to the President, and the President signed it.

The administration then took the time appropriate. Recognizing the difficulty of implementing some of this, they allowed for a time period in order to be able to work through the rules. When they did come out with the first rule, I regret that they came out with a rule that many of us felt—I felt and shared with others in America—a sense that it was not going to work. There was a firestorm in the country over that for a brief period of time. I spoke out in our caucus, and I said I thought there was a better way to try to deal with that that created a balance between the first amendment requirements and the needs of people to be able to have access and be protected. I didn't think it was and I don't think today it is right to force a religiously affiliated institution to pay for contraception if it violates fundamental religious beliefs.

I am glad to say that the administration—the White House, which I think perhaps hadn't been able to see all of the implications of what had happened at that point in time—quickly moved to recognize that indeed the rule was not proposed as it ought to be, and they changed it. They responded. That was the right decision. This week, Secretary Sebelius made it clear they are still working with the faith community on a final rule that will address the concerns of my church and of other institutions which are self-insured.

But with all due respect to what the Senator from Maine, Senator COLLINS, said a few minutes ago, Secretary Sebelius said publicly, after the Senate Finance Committee hearing on this subject on the budget, whether it is an insured plan or self-insured plan, the employer who has a religious objection doesn't have to directly offer or pay for contraception. So I take issue. I believe the letter the Senator received actually addresses this question and says they are working with the community, as I believe they ought to, in order to come up with a means of guaranteeing that self-insurance will be protected, as I believe it ought to be protected.

But I don't believe we ought to embrace the Blunt amendment as this broad-based opening of Pandora's box that carries with it all kinds of other risks and potential mischief. We don't have to do that in order to protect the self-insured here. I think it is important to work together with patience to try to find a way to do no harm, if you will, to the Constitution or to the rights of women in this country to access health care.

I believe in the spirit of the amendment that is in front of us today. I know the Senator from Missouri acts in good faith personally, and I respect that. But language is always important, critical in legislating, and the language is overbroad. If there is one thing I know after 27 years of legislating here, it is that when you are

writing legislation, it is critical to understand the implications of the language you use. Precision matters. This amendment opens the potential for overly broad and vague exceptions that could allow children to be denied immunizations. It could allow a company—and a company is quite different from an individual's right to protection under the Constitution—to actually object to mental health services. It could allow for the denial of HIV screenings because people think somehow that is a disease that belongs to a category they object to in terms of social life and structure in America. It would allow, potentially, the objection of maternity care for single mothers because people have an objection to a single mother being pregnant and having a child.

There is all kinds of mischief that could be implemented as a consequence of people's assertion of a belief that is not in fact covered under the first amendment but which, as a result of the language in this amendment, could be swept into some claim, and I don't think we should do that. That is not good legislating. That is dangerous.

I was interested to hear the minority leader this morning assert some things about the first amendment. I think they are absolutely incorrect. The first amendment is a guarantee that religious liberty will be protected in America and that government will not institute one religion or another or establish a religion for the Nation. It also says no religious view will be imposed on anybody. The Blunt amendment is, in fact, an assault on that protection of the first amendment because it imposes one view on a whole bunch of people who don't share that view or on those who want to choose for themselves.

The Affordable Care Act and the President's compromise and the final rule leave all of the existing conscience clause provisions in place—it doesn't change them at all—while adding additional protection for churches and for religious organizations. The administration's compromise regulation, endorsed by the Catholic Hospital Association and other religious organizations, maintains conscience protections so that any religious employer with objections to coverage of contraceptive services will not be required to provide, refer, or pay for these services. Furthermore, all churches and houses of worship are exempt from the compromise regulation.

In fact, as the Women's Law Center pointed out:

Under current law, individuals and entities who wish to refuse a role in abortion services are protected by three different federal laws, the Church Amendments (42 U.S.C. §300a–7), the Coats Amendment (42 U.S.C. §238n), and the Weldon Amendment, which is attached to the Labor-HHS appropriations bill each year. The health care reform law explicitly said it would not have any effect on these laws, meaning these were the law of the land before the health care reform law and continue to be the law now. So, the Blunt Amendment doesn't ''restore'' these rights because they never went away. What could the Blunt Amendment be about, then? Before the health care reform law, refusals happened all the time, and that was a big part of the problem that the health care reform law was meant to address. People were refused coverage for things like having had a C-section or being a cancer survivor. Insurance plans refused to provide coverage for services, like maternity care or mental health. But to call the refusals that happened before health care reform a ''conscience right'' is a mischaracterization. Refusals were business as usual. They had very little, if anything, to do with an individual's or insurance company's conscience. They had to do with insurance companies refusing coverage for things they didn't find profitable. And by granting a huge loophole with its permission to refuse coverage based on ''moral considerations'' the Blunt Amendment would take us right back there, while hiding under the guise of ''conscience rights.''

I have met with and had conversations with conscientious people in my Church, because it is important to listen to help find answers to these difficult questions. It has left me convinced that we don't have to support a back-door dismantling of health care rights to protect religious liberty. The administration's dialogue with the faith community to reach a final accord that protects patients, including women, and also protects religious liberty is a far better outcome than to have the Senate rush to undercut that effort and pass something that is overly broad, risking dangerous unintended consequences.

Mr. President, this amendment would be a mistake—for women, for health care, for millions of Americans who don't want to go back to the days when they could be denied care for any reason. We don't need to drive another wedge in our politics. We need to drive towards that common denominator, that common ground—and that is why this amendment must be defeated.

I would simply close by saying the Senate should not rush to undercut the protections already in place and which, ultimately, would undermine the teachings of my church, which argues that social conscience and values ought to be primarily established by caring for our sick, and this would in fact deny that, to some degree.

Mr. LIEBERMAN. Mr. President, I rise today to address Senator BLUNT's amendment to the surface transportation bill, which deals with the Obama Administration's recent proposal to require group and individual health insurance plans, with the exception of those issued to churches or other houses of worship, to cover contraceptive care for all women.

I believe the administration's proposal is inadequate, but I will not support the Blunt Amendment because I believe it is too broad. I want to discuss how this amendment came before the Senate and then I will lay out the reasons why I will vote against it and offer a different way forward.

The question before us deals with one of the most controversial matters raised by the Affordable Care Act—which is finding a balance between requiring health insurance plans to cover a core level of benefits and respecting the religious rights and moral beliefs of those who will be mandated to purchase these health insurance products. This is a difficult issue because religious freedom, as enshrined in the Bill of Rights, is literally the first of our freedoms. And the issue of access to quality health insurance for every American is at the cornerstone of the Affordable Care Act.

I would like to quickly review how the administration has addressed this question in its regulations implementing the Affordable Care Act. The ACA, as adopted by Congress, directs all health insurance plans to cover a number of preventative care services, without cost sharing or copays, to include some immunizations, preventive care and screenings for children and adolescents, and with respect to women, additional preventive care and screenings that the Secretary of Health and Human Services has determined should include contraception and contraception screening.

In explaining its decision to include contraceptive services within that mandate, the administration has referenced the Institute of Medicine's conclusion that there are significant health benefits derived from providing women with access to contraceptive care. I agree with the Institute of Medicine and the overwhelming majority of Americans who believe that having access to contraceptive care is important for women and is a right protected by U.S. Supreme Court precedent. But then we have to ask, must the cost of contraceptive coverage be covered by the health insurance plans of every employer?

In answering this question, we are required to address the concerns of those who oppose the use of contraceptives based on their religious or moral convictions. The administration provided, correctly in my view, a total exemption from this mandate for houses of worship that oppose the use of contraception on moral and religious grounds. But the administration did not extend this total exemption to such church-affiliated, non-profit organizations as hospitals, charities, and schools.

In response to the public outcry to the original regulation, the President amended his proposal in order to allow church-affiliated, non-profits, such as hospitals, schools, and charities, to exclude contraceptive coverage in the health insurance plans they provide to their employees, but only if their insurer directly contacts each employee covered under their health insurance plan and makes them aware that they are eligible to obtain contraceptive coverage at no cost if they choose to do so. In my view, this proposed compromise falls short of protecting the values and beliefs of America's faith-based institutions. It can and should be strengthened to give religiously affiliated organizations the same protection

of their religious beliefs as the administration would give to houses of worship.

I do not see why religious affiliated institutions like hospitals, universities and their employees should be treated differently from churches, synagogues and their employees. Many States, ever the laboratories of our democracy, have already addressed this question in a reasonable and responsible way that is different from the administration's response. In fact, many States have established their own mandates with regard to contraceptive coverage, and along the way devised their own approaches to respect the balance between requiring health insurance plans to cover a core level of benefits and respecting the right of conscience for those who purchase or offer a private health insurance plan to their employees.

Specifically, I believe that Connecticut's approach to this question is one that could serve as a model of how to address this issue on a national level.

In Connecticut, health insurance plans are required to cover contraceptive care for all women, but the law provides a full exemption for health insurance plans purchased and provided by churches and church-affiliated organizations, acknowledging their unique, faith-inspired mission and core religious values. Specifically, the law in Connecticut states that churches and their affiliated institutions, may be issued a health insurance policy that, ''excludes coverage for prescription contraceptive methods which are contrary to the religious employer's bona fide religious tenets.'' The law in Connecticut also allows any individual beneficiary in any health insurance plan to opt out of contraceptive coverage as long as she or he notifies their insurance provider, ''that prescription contraceptive methods are contrary to such individual's religious or moral beliefs.''

Unlike Connecticut's approach, Senator BLUNT's amendment would provide a broad based exemption from all mandated health insurance benefits required by the Affordable Care Act—by allowing any business or organization to refuse to offer any coverage to its employees that it finds objectionable on a religious or moral basis. Such a broad exemption could undermine the intent of Congress in mandating coverage for such essential services as maternity care, mental health, and immunizations.

In conclusion, the experiences of many of our States, including Connecticut, shows that it is possible to find a better balance between requiring health insurance companies to offer a quality health insurance product and respecting the religious liberties of our Nation's religious-affiliated organization than either the administration or this amendment offers. There is a better way forward on this important decision than the options that have been presented so far and I hope to work with my colleagues in the Senate to develop one.

Mr. LEAHY. The Senate is considering a bipartisan bill that would reauthorize critical infrastructure investments and that will protect an estimated 1.8 million jobs if enacted before the end of this month. Unfortunately, in order to move forward on this important legislation, my friends on the other side of the aisle have demanded that we first consider an amendment entirely unrelated to transportation or even job creation. We have now spent the past 2 days considering a Republican amendment that would roll back access to health care for millions of Americans.

Access to health care for women has come under attack in recent weeks after the Department of Health and Human Services announced it would follow the recommendations of the nonpartisan Institute of Medicine and require that under the Affordable Care Act, health plans must cover a range of preventative services for women, including contraception. This is not a novel solution. Twenty-eight States, including Vermont, already require such coverage. The new rule will also include no-cost preventative coverage of a range of services for women including mammograms, prenatal screenings, cervical cancer screenings, flu shots, and much more.

Some religious institutions were apprehensive about the policy and, in response, the Obama administration made further accommodations to address these concerns. The new policy strikes a reasonable balance and is a solution that continues to recognize the obvious truth that women have a right to affordable and comprehensive health care, just as men do. One thing we all should agree on is that availability of birth control has improved women's health and reduced the number of teen pregnancies and the rates of abortion. This should be applauded.

Unfortunately, this compromise did not satisfy some who insist on politicizing women's health. At a House Oversight and Government Reform Committee hearing a few weeks ago, a thoughtful Georgetown law student was prevented from testifying about her experiences because she was deemed not ''appropriate and qualified'' to testify at the hearing by its Republican chairman. Not surprisingly, the all-male panel failed to raise any first-hand concern about women's health care needs. Rather than demonizing women who speak out on behalf of the millions who use contraception, we should be having a principled debate about access to health care. Last year, Congress nearly shut down the government over funding for Planned Parenthood and other title X providers. States have recently followed suit by passing laws limiting women's access to health care services. Our focus should be on improving access to quality and affordable health care for all Americans, not arbitrarily restricting important services needed by millions of women.

The Republican amendment marks just the latest overreach and intrusion into women's health care. While this debate began as one focused on access to birth control, the amendment has a far greater reach and jeopardizes virtually any health care service that an employer or insurance plan deems contrary to its undefined ''moral conviction''—whether the employer is a religious institution or not. For example, any plan or insurer could deny coverage of vaccinations or HIV/AIDS treatment based on a moral or religious objection. The pending amendment would allow any employer or insurer to refuse contraceptive coverage, annual well-women visits, gestational diabetes screening, and domestic violence screenings. This amendment could allow an insurance provider to refuse coverage of health care services to an interracial couple or single mom because of a religious or moral objection.

At the core of the Affordable Care Act was the principle that all Americans, regardless of health history or gender, have the right to access health care services. This amendment turns that belief around and would take decisions out of the hands of patients and doctors and place them with businesses and insurance plans. This serves only to put businesses and insurance companies in the driver's seat, allowing them to capriciously deny women coverage of health care services. The amendment is a direct attack on women's health that would have public health consequences for all Americans.

Today marks the first day of Women's History Month. Instead of considering legislation that might promote women's equality such as the Paycheck Fairness Act or the Fair Pay Act, we are being forced to vote on the amendment that undermines the ability of women to access basic health care. I will vote today in favor of the health of women and against the proposed amendment. I urge my fellow Senators to do the same.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California is recognized.

Mrs. BOXER. Mr. President, I ask unanimous consent that I be allowed to speak for 5 minutes, and that Senator MURRAY conclude our side with 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, I have news for the supporters of the Blunt amendment: We were not born yesterday. And no matter how many times they say this is nothing more than a restatement of old laws, the facts are not with them. We have never had a conscience clause for insurance companies. And if you wanted to give them a chance to say no, a lot of them don't have any conscience, so they would take it. And this is what Blunt does. It

allows any insurance company that doesn't want to provide a service—maybe an expensive service—to say, oh, I meant to tell you, I have a moral objection to this.

What a situation. How many people have struggled with their insurance companies to get them to cover what they have paid for for years and years and years, only to have the insurance company say, sorry, sue us. Now Mr. BLUNT is giving insurance companies a way to say, oh, we feel sorry that you have cancer; we are sad you have diabetes; we are torn apart you might have a stroke, but, you know what, we have a moral objection to the kind of therapies that are out there today, so we are sorry.

That is what the Blunt amendment does.

Should anyone think I am making it up, let's look at the words in the Blunt amendment. They are right here. They are right here. So the Senator from Maine can say whatever she wants about it, the Senator from Missouri can talk about what he wants to, but the fact is they say if you deny any coverage from the essential health benefits package or the preventive health package it is fine as long as you hide behind—my words—a moral objection.

This started out with birth control. There was a hearing over in the House, and this iconic picture will last through my lifetime and yours. Here is a photograph of a panel discussing women's health care over in the Republican House. A discussion on women's health care. Do you see one woman there? I don't. They are all men. And these men are waxing eloquent about birth control and the fact that, oh, it is just a moral issue with them and they do not think women should have the right to have it. Not one of them suggested men shouldn't have their Viagra, but we will put that aside. We will put that aside.

Not one woman was called. And when a woman raised her hand in the audience and said, I have a very important story to tell about a friend of mine who lost her ovary because she couldn't afford birth control, which would have controlled the size of the cyst on the ovary, you know what Mr. ISSA said over there? He said, you are not qualified. You are not qualified to talk about women's issues. I guess only men are qualified to talk about women's issues. We have men on the other side of the aisle here, for the most part—with a little assist—telling women what their rights should be.

I cannot believe this battle is on a highway bill, on a transportation bill, where 2.8 million jobs are at stake. We have been diverted with this amendment about women's health. Look at the different important benefits that any insurer or any employer could walk away from. Because if this amendment passes, they would have the right to do so. They would no longer have to cover emergency services, hospitalization, maternity care, mental health treatment, pediatric services, rehabilitative services, ambulatory patient services, laboratory services. They would no longer have to offer breast cancer screenings, cervical cancer screenings. All they have to do is say, oh, I am sorry, we believe prayer is the answer. We don't believe in chemotherapy. If someone is heavy and they are obese and they get diabetes, we have a moral objection to helping them because, you know what, they didn't lead a clean life. So they could deny any of these things—flu vaccines, osteoporosis screening, TB testing for children, autism screening.

In conclusion, I urge my colleagues to vote down this dangerous amendment. Vote it down. We will have a motion to table, and I urge my colleagues to stand for the women and the families of this Nation and let's get back to the highway bill. Get rid of this thing.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. I yield the floor.

The PRESIDING OFFICER. The senior Senator from Washington State.

Mrs. MURRAY. Mr. President, I thank the Chair, and I want to thank the Senator from California and the many Senators who have stood proudly to fight for a woman's right to make her own health care decisions. Certainly in this year of 2012, after decades of fighting to make sure women have the rights and opportunities to be whoever they want and to make their own health care choices, this vote today is an affirmation of that, if we can beat back this Blunt amendment.

We are at a very serious time in our Nation's history. Our economy is struggling, and though we are getting back on track, millions of families get up every day and are concerned about whether they can afford their mortgage or send their kids to college. I have to say, I am sure millions of women in this country did not think they would have to get up this morning and worry about whether contraception would be available to them depending on who their employer was.

This is a serious issue. We have heard a lot of rhetoric about what the Blunt amendment is. My colleague from California just described it for us. It is terrible policy. It will allow any employer in America to cut off any preventive care for any religious or moral reason. It would simply give every boss in America the right to make health care decisions for their workers and their families. It is a radical assault on the comprehensive preventive health care coverage we have fought so hard to make sure women and men and families across this country have. If this amendment were to pass, employers could cut off coverage for children's immunizations, if they object to that. They could cut off prenatal care for children born to unmarried parents if they object to that.

The American people are watching today. Young women are watching today. Is the Senate a place where their voice will be heard and their rights will be stood up for?

We have watched this assault on women's health care for more than a year now. A year ago, almost to this very day, we were working to make sure we kept the government open by putting together our budget agreement. In the middle of the night, all the numbers were decided, all the issues were decided, and we were ready to move forward within hours to make sure our government did not shut down. What was the last issue between us and the doors of this government closing? The funding for Planned Parenthood.

I was the only woman in the room, and I stood with those men and I said, no, we will not give away the funding for this over this budget. The women of the Senate the next morning stood tall. We gathered all our colleagues together and we fought back and we won that battle. And those who are trying to take away the rights of women to make their own health care choices and to have access to contraception in this country today have been at it every day since.

We are not going to allow a panel of men in the House to make the decisions for women about their health care choices. We are not going to allow the Blunt amendment before us today to take away that right. We believe this is an important day. In fact, this happens to be March 1, the beginning of Women's History Month in this country. Let us stand tall today in this moment of history and say the United States Senate will not allow women's health care choices to be taken away from them.

I urge my colleagues to vote with us to table the Blunt amendment and to tell women in this country everywhere that we stand with them in the privacy of their own homes to make their own health care choices.

Mrs. MURRAY. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

Mrs. MURRAY. I move to table the Blunt amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—51

Akaka	Hagan	Nelson (FL)
Baucus	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johnson (SD)	Reid
Bingaman	Kerry	Rockefeller
Blumenthal	Klobuchar	Sanders
Boxer	Kohl	Schumer
Brown (OH)	Landrieu	Shaheen
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Conrad	Lieberman	Udall (CO)
Coons	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Webb
Franken	Mikulski	Whitehouse
Gillibrand	Murray	Wyden

NAYS—48

Alexander	DeMint	McCain
Ayotte	Enzi	McConnell
Barrasso	Graham	Moran
Blunt	Grassley	Murkowski
Boozman	Hatch	Nelson (NE)
Brown (MA)	Heller	Paul
Burr	Hoeven	Portman
Casey	Hutchison	Risch
Chambliss	Inhofe	Roberts
Coats	Isakson	Rubio
Coburn	Johanns	Sessions
Cochran	Johnson (WI)	Shelby
Collins	Kyl	Thune
Corker	Lee	Toomey
Cornyn	Lugar	Vitter
Crapo	Manchin	Wicker

NOT VOTING—1

Kirk

The motion was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent we now proceed to a period for morning business until 2 o'clock, with Senators permitted to speak for up to 10 minutes each in that period of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 2146 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Texas.

TEXAS INDEPENDENCE DAY

Mrs. HUTCHISON. Madam President, I see the Senator from Arkansas on the Senate floor. I will follow the Senator from Arkansas on another piece of legislation about which I hope to speak, but I do want to take about 5 minutes to read the letter William Barret Travis sent from the Alamo. 176 years ago tomorrow, March 2, 1836, is the anniversary date of Texas' independence.

I am going to read this letter in commemoration of Texas Independence Day because it was on that date that Texas declared its independence from Mexico. Fifty-nine brave men signed the Texas Declaration of Independence, putting their lives, and the lives of their families, on the line to declare that ''the people of Texas do now constitute a free, Sovereign, and independent republic.''

I am proud that my great-great grandfather, Charles S. Taylor, was willing to sign that document that declared our freedom. In fact my son Houston is named Houston Taylor Hutchison for that Texas patriot. I am humbled to hold the seat that was first held by another signer, and one of Charles S. Taylor's best friends, and that was Thomas Rusk, who was the Secretary of War who defended the Declaration of Independence by fighting at the Battle of San Jacinto.

As was the case in the American Revolution, our freedom was ultimately secured through the actions of the brave Texans who fought and died on the battlefield. The late Senator John Tower started the tradition of a Texas Senator reading the Travis letter, and it was continued by Phil Gramm, and I took it over in 1994. This is something we do to tell America and to assure that Texans always remember this day in our history because after this, of course, we became a republic and we were a republic for 10 years before we became a part of the United States.

So it is with pride that I read—for the last time as a Senator representing Texas—the wonderful letter that was written by COL William Barret Travis. He said:

To the people of Texas and all Americans in the world—

Fellow citizens and compatriots—I am besieged by a thousand or more of the Mexicans under Santa Anna. I have sustained a continual bombardment and cannonade for 24 hours and have not lost a man. The enemy has demanded a surrender at discretion, otherwise, the garrison are to be put to the sword, if the fort is taken. I have answered the demand with a cannon shot, and our flag still waves proudly from the walls. I shall never surrender or retreat.

Then, I call on you in the name of Liberty, of patriotism and everything dear to the American character to come to our aid with all dispatch. The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due his own honor and that of his country. Victory or Death.

WILLIAM BARRET TRAVIS LT. COL. COMDT.

True to his word, he did not surrender. The Mexicans did have thousands of reinforcements. He drew a line in the sand at the Alamo. All but one man bravely crossed that line or was carried over it on a stretcher to accept the challenge to stay and fight. These men knew they would never leave the Alamo alive, but they heroically defended the Alamo for 13 days; the 13 days of glory, as it is known, against a force that eventually outnumbered them by more than 10 to 1.

William Barrett Travis, Davy Crockett, Jim Bowie, and the rest of the 189 men at the Alamo gave their lives fighting for something greater than themselves. It was that delay that gave GEN Sam Houston the time to organize his men and retreat to a point they could defend, which eventually became the Battle of San Jacinto. Just seven weeks later, on April 21, 1836, Sam Houston—because of that delay that was given to them by William Barret Travis and the 189 men at the Alamo—was able to take a stand at the Battle of San Jacinto, and Texas was a republic from that time forward, for 10 years. Texas is the only State that was a republic when it entered the United States. With that distinction, we like to share our vivid history.

It has been a wonderful opportunity for me to be able to read this letter every year. I feel sure it will be continued by Senator CORNYN or my successor in this seat. We will always make sure people know we fought for our freedom just as the American patriots did, and we are very proud to have that rich and colorful history.

So I thank the Senator from Arkansas, and I look forward to serving the rest of my term, but this will be the last time I get to share this piece of history.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I think it is unanimous on this side of the aisle that we are going to miss the Senator from Texas when she leaves, and it is sad to hear about her doing something for the last time in the Senate. She has been a wonderful Senator and colleague and all of us on the Democratic side, and I am sure the Republican side as well, will greatly miss her.

I wish the RECORD to reflect that Texas does have a glorious history. One of the things we are proud of in our State is that many of the men who gave their lives for the republic of Texas at the Alamo actually passed through Arkansas because that was the Southwest Trail back in those days. Many of those men passed through the State—actually, it was a meeting place, maybe a tavern I think they might have called it back then—near Hope, AR. So we share a little piece of that history in our State as well.

Mrs. HUTCHISON. Madam President, I wish to thank the Senator from Arkansas for his kind remarks. I have so enjoyed serving with his father before him and then him. It is a point of history for Arkansas that this Senator

PRYOR followed his father into the Senate. I appreciate so much that we are contiguous with the State of Arkansas and that so many of the people who settled the West did come through Arkansas. Some stayed there and some came on to Texas. Our whole history of the West is so exciting, and I am glad people remember it.

ENERGY

Mr. PRYOR. Madam President, I thank the Chair for the recognition. I wish to talk about something that is on everyone's mind. When I was in Arkansas last week for the recess, I did four or five townhall meetings and pretty much everywhere I went, this was the topic of discussion; that is, gas prices in our State.

I know it hurts every American when gas prices go up because gasoline prices and diesel prices have a way of working their way through the entire economy and causing economic difficulties for this country. One of the things people pointed out to me is this roller coaster effect we have seen on gas prices over the last year or so. One thing my friends in Arkansas noticed is that the price there has gone up about 30 cents a gallon just in the last couple months. So it has been a very dramatic increase and it is something people are very concerned about.

I wish to make three points about this. One is that I think the Congress—House and Senate—as well as the White House should look at this problem of speculation. When we look at the numbers, some are saying a fairly large percentage of the costs of a gallon of gas—some people say 20 cents a gallon and some people say 40 cents a gallon—actually goes to the speculators. So what that means is a lot of these guys have no intention of ever taking the product and doing anything with it, other than just trading it, to try to profiteer in a volatile market. That is a big concern.

We actually passed something 2 or 3 years ago to get the CFTC to issue some regulations on how to handle this, and now those apparently have been challenged in court. Of course, the people challenging this are the people who are benefiting from the speculation. So I think we need to find that balance.

When we have a market, there are going to be speculators in the market and they are going to get out there and try to make some money in the marketplace. That is the nature of the business. Sometimes they win; sometimes they lose. That is legitimate. But I think there are people and companies, some invest billions and billions of dollars, but they are trying to profiteer off the volatile oil situation. So we need to focus on speculation.

We also need to focus on the supply of oil in this country. The good news is we are seeing more and more acreage being drilled and permitted to be drilled in this country. After the terrible gulf spill a couple years ago, those permits are starting to be issued again down in the Gulf of Mexico, as I understand it. Also, I am a supporter of the Keystone Pipeline as well. We need to continue to develop our domestic supply, and even our near domestic supply in Canada, of oil. We also need to have diversity in our energy portfolio. There needs to be alternatives to gasoline and diesel. We need to find different ways to run our vehicles, whether it is natural gas or whatever it may be. It could be electricity. It could be lots of different products. We need to continue to innovate in this country and try to do great things.

That brings me to my third point, which is the real reason why I am on the floor. Certainly, it touches on gas prices, and that is very important. We don't want to see gas prices slow down our economic recovery we are undergoing right now.

We also need a more comprehensive and smarter national energy policy. I think an important first step toward that is for us to evaluate all the energy programs we happen to have on the books already—what the Department of Energy is doing, what other various departments are doing. Someone needs to be looking at all the tax credits and tax incentives when it comes to energy. We need a comprehensive analysis of where we are as a nation: what our strengths are, what our weaknesses are.

What I am proposing is a bill, the Quadrennial Energy Review. It is a bill we have introduced, and I am fortunate enough to have Senator BINGAMAN, the chairman of the Energy Committee, as well as Senator MURKOWSKI, the ranking member of the Energy Committee, as cosponsors. We would love to have other Senators look at this, maybe relatively soon, because we would like to start moving this through the process, if at all possible.

A quadrennial energy review is based on what they do at the Department of Defense. Every 4 years, the DOD goes through this very detailed, top-to-bottom analysis of all the things they need to consider in the Department of Defense, and they come out with the QDR—the Quadrennial Defense Review. Basically, it looks at what we have and it presents a roadmap for where we need to go.

That is what we need to do with energy. We already have this model that works. This idea would be more governmentwide—not just the Department of Energy but governmentwide. I encourage all my colleagues to look at this and if they wouldn't mind having their staff check back with my office because we would love to have other colleagues as cosponsors if they are interested. I don't think it is controversial. I don't think there is much money or much requirement involved. I think it is good government and smart government to come up with a comprehensive energy policy for our Nation.

In Washington we hear the American people loudly and clearly. We are concerned about gas prices as well on lots of different levels and we will certainly be focused on that and paying a lot of attention to that issue over the next several weeks and, hopefully, we can do some good for the market and do some good for the American people.

With that, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTO INDUSTRY RESCUE

Mr. BROWN of Ohio. Madam President, I have had, over the last couple weeks around my State of Ohio, a number of conversations with workers and management both who work for auto companies, from foreign-owned Honda in central Ohio to the big three auto companies, which are very involved in the Ohio economy—Chrysler, GM, and Ford—and a number of conversations with auto suppliers: those companies that are less well known, companies such as Magna and Johnson Controls and companies that are smaller than that that are so-called tier 1, 2, or 3 suppliers, those companies that sell components into the manufacturing supply chain that ultimately end up in a Jeep Wrangler made in Toledo or a Chevy Cruze made in Lordstown, OH, near Youngstown.

In almost all these conversations, these companies, these executives, and workers are simply incredulous that the auto rescue is still being debated—that it worked or it did not work.

One just has to come to Ohio, and not just northern Ohio, where the assumption is that is sort of where the auto industry is in Ohio—it is true, but it is also in the rest of the State—but people all over Ohio and all over the whole industrial Midwest and I think all over the country understand the auto rescue worked.

We remember back when Senator LEVIN and Senator STABENOW and Senator Voinovich, a Republican from my State who has since retired, took to the floor—and in committee hearings and all that—in December of 2008, when President Bush realized the auto industry needed, at a minimum, some bridge loans to stay in business, not because we have any interest in the government owning auto companies but because we knew hundreds and hundreds and hundreds of thousands of workers and thousands of small businesses that manufacture goods in our State and in Michigan and in Indiana and all over the region, all understood it would be economic devastation. I think and I think most economists think and most auto people think and I think most Ohioans think it would have led to a depression. That was in December of 2008.

Because of a whole bunch of reasons, this place decided not to do what President Bush thought we should do. Then, later on, a few months later, when President Obama said we have to step up and do the right thing, it was still a difficult vote. It passed, with some Republican support but not as much as we had hoped. But it passed. This was in December 2008 and then early 2009 when President Obama took the oath of office. We can now look at what has happened in this country.

Fundamentally, we see an auto industry that is so important to manufacturing in our country and so important to building a middle class. We can see what that has meant to our country. I will give you one big example. From 1997 to 2010, every single year we have seen a decline in manufacturing jobs in our country—every single year. In my State, and I know in the Presiding Officer's State of North Carolina, in which manufacturing has been a huge presence, they have suffered as every State has. From 2008 to 2010, every single year there have been manufacturing job losses. But you know what, since the auto rescue, for the last 20, 21, 22 months, we have seen manufacturing job growth—manufacturing job growth every single month for the country and for my State of Ohio. Every single month, we have had more manufacturing jobs than the month before. That is not good enough because it is not enough growth, but it is clearly going in the right direction.

In auto alone, you can see what is happening in my State. The four large auto companies in Ohio—Ford, Chrysler, General Motors, and Honda—all four of them have announced major expansion plans, major investments in our State, including building a new car in some cases, building a new line of cars, and in other cases expanding significantly.

Look at a car like the Chevy Cruz. Its engine is made in Defiance, near the Indiana border. Its bumper is made in Northwood. Its transmission is made in Toledo. Its speakers are made in Springboro, near Dayton in southwest Ohio, so the Dayton-Cincinnati area. There are brackets made in, I believe, Brunswick and other places. The steel comes from Cleveland. The aluminum comes from Cleveland. Stamping is in a plant in Parma—the stamping, I believe, of the components to the car. The assembly is ultimately in Lordstown, and 5,000 people work in Lordstown, OH, stamping and assembling this small car that has been one of the best sellers of any car in the United States of America.

In Toledo, where the Jeep Wrangler is assembled, prior to the auto rescue, only about 50 percent of the components in a Jeep Wrangler were American made—only 50 percent. So half of them came from production outside of the United States. Today about 75 percent of the Jeep Wrangler—the components to the Jeep Wrangler are assembled in the United States—is so-called domestic content. What does that mean? That means jobs.

That is why it is so important that the President continue to move forward—and I hope more aggressively—on the whole issue of auto supply parts. We saw how just 10 years ago we had a deficit with China of about $1 billion in auto parts. Today we have a trade deficit with China in auto parts of almost $10 billion. So I know how concerned the President is.

I know that American auto companies, including Honda, want to source more and more of their products in the United States of America. They want those products to be manufactured here in addition to being assembled here. And manufactured here obviously means it will be close to the final assembly point in the critical mass that these manufacturers want to grow jobs.

So we are seeing a partnership now that we have never seen in my lifetime, I believe, between the auto industry and the U.S. Government, not for the government to have ownership, not for the government to tell the auto industry what to do, but for the government to make the business climate for these auto companies more and more favorable. That is what is good. That is what has come out of the auto rescue for Toledo—the assembly of the Jeep Wrangler. That is what has come out of the auto rescue in Youngstown—in Lordstown, the Youngstown area—for the Chevy Cruz. All of that is good news, that economic growth, that manufacturing job growth we have seen for more than 20 months. It clearly takes us in the right direction.

It is important that the naysayers just kind of drop—I mean, they can say whatever they want about the auto rescue. They are going to say what they want for political reasons. But it is clear that we as policymakers—you know Presidential candidates are going to do what the Presidential candidates are going to do in both parties. I don't really much care. But I do care that this body, the Senate, focus its efforts on how do we cooperatively grow this industry. It means more union auto workers going to work. It means more nonunion supply chain workers going to work. All of these are good-paying jobs. What do we care about more here than preparing an environment for good-paying jobs that put people back to work and can help them join the middle class.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL.) Without objection, it is so ordered.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 2151 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. MCCAIN. Madam President, I ask unanimous consent that morning business be extended for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I ask unanimous consent that I be allowed to engage in a colloquy with the Senator from South Carolina, Senator GRAHAM, and the Senator from North Dakota, Senator HOEVEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF AMERICAN HOSTAGES

Mr. MCCAIN. Madam President, I, along with Senators GRAHAM, HOEVEN, BLUMENTHAL, and SESSIONS, had a very interesting trip last week, where we visited various countries and learned a lot at each one. The reason we are here on the floor today is to talk a bit about the recent release—thank God—of Americans who were in the American Embassy and were subject to trial and prosecution by the Egyptian Government. This was a humanitarian issue from the standpoint that no American citizen should be treated that way, especially by an ally, but it was also a larger issue in that the outcome could have significantly impacted relations between our country and Egypt.

Egypt, as my friend from South Carolina well knows, is the heart and soul of the Arab world. What happens in Egypt affects the entire Arab world. Our relationship with Egypt is one that is vital not just for Egypt but our national security interests are that the region remain peaceful and that there not be conflict and abrogation of the treaty that was concluded between Egypt and Israel as a result of the Camp David agreements.

I think it is important to recognize that Egypt is in a bit of turmoil. These young people, from the National Democratic Institute, the International Republican Institute, and Freedom House, unfortunately, had to go to our embassy because they were going to be prosecuted under then-Egyptian law.

I wish to begin by saying that our Ambassador to Egypt, Anne Patterson, may be one of the finest diplomats this Nation has produced. The more the Senator from South Carolina and I travel, and the more we meet with and have discussions with representatives at our U.S. Embassies, we realize these people are enormously good, and we are proud they represent the United States, particularly Anne Patterson.

She has worked tirelessly since this whole crisis began. I believe the majority of the credit for this successful outcome, as far as our American citizens are concerned, can be directly attributed to her dedication, her hard work, and her tireless efforts day and night on behalf of these young people. So we are extremely proud of her.

I wish to ask my friend from South Carolina what he thinks were the reasons why the Egyptian Government changed what they had previously said would be a judicial prosecution of these American citizens to allowing them to leave Egypt and return to the United States, as they are now on their way?

Mr. GRAHAM. Madam President, I wish to add my gratitude and recognition of Ambassador Patterson and her whole team—the State Department team on the ground. They did a very good job making the case to the Egyptian Government. But we have to all realize Egypt is in transition. They have just had their elections for the lower house, the Parliament. The upper house has not been seated yet, and they have not elected a President. They have gone from a dictatorship to an emerging democracy, and this case comes along, the NGO prosecutions.

I think both of us—our entire delegation—think this is offensive. The IRI, the NDI are Republican-Democratic organizations funded by the government and the private sector that try to help emerging democracies all over the world. They have been in every country hotspot you can name—after the collapse of the Soviet Union—doing great work. So the accusations were the people involved in these organizations—and Senator MCCAIN is the head of IRI—were involved in spying and espionage, and I wanted to take the floor to say I found the accusations offensive and without merit.

The Egyptian coworkers, Egyptian citizens who were working with the IRI and NDI, are still in custody in Egypt, facing criminal prosecutions for helping these fine organizations, and we will not take our eye off of that and we will keep pushing to make sure we get the right answer.

But how did this end? We know how it started. I think it was a political effort to try to justify Mubarak-era law that was used to oppress and keep out of the country people who were helping to bring about change. One of the bright spots of this engagement was that the army—and General Tantawi was as helpful as he could be, given the constraints of the army in this new government formation.

But when we engaged the Muslim Brotherhood, the Freedom and Justice Party, the largest bloc in Parliament, Senator MCCAIN, in his first engagement, the first thing he said to the representative was this NGO situation and how damaging it was to Egypt-American relationships, how unfair it was, how out of bounds it was in terms of the law. The response was from this group that we find the NGO law unacceptable, unjust, and we are wanting to change it. Once that statement was made publicly, it allowed this momentum to withdraw or lift the administrative travel ban. The cases may still go forward, but our people are coming home.

I think the reason this happened is because of the collaboration between the State Department, the delegation, every aspect of the American Government, and the people on the ground in Egypt I think understood the value of the United States-Egyptian relationship, and the judicial system finally made a wise decision. To those left behind, we are certainly standing with you, and you will not be forgotten.

But this could have ended the United States-Egyptian relationship.

Senator MCCAIN and Senator HOEVEN, let me ask a question to you both. If this had not ended well, if they had insisted on prosecuting and having the American citizens questioned appear in cages before an Egyptian court based on an outlandish acquisition, what kind of reaction would we have had in the United States and what damage would it have done to United States-Egyptian relationships, in your opinion?

Mr. MCCAIN. As the Senator from South Carolina knows, there was a pending amendment to cut off the $1.3 billion. I would emphasize to my colleagues that $1.3 billion was a commitment that was made at the time of the Camp David agreement which led to a peace agreement between Egypt and Israel, which, if that amendment had been enacted, I am confident would have been cause for the Egyptians to abrogate the peace treaty with Israel. The consequences of all that I am not sure of.

I wish to emphasize to my friend—and I see Senator HOEVEN here—we did have meetings with the speaker of their Parliament and his colleagues. We did have meetings with the chairman of their committee on human rights, who happens to be the nephew of Anwar Sadat, one of the signatories to the Camp David agreement—the signatory, along with Menachem Begin. We did meet with the Muslim Brotherhood, who then agreed with us that NGOs are important and the law needed to be revised. Of course, we met with Marshal Tantawi, the head of the interim military government.

What confused us a bit at first, I ask my colleague from North Dakota, was that everybody said: We are with you. Yet, they were gridlocked. In the words of the Chairman of the Joint Chiefs of Staff who had been over there, they were paralyzed. It seemed to me that the statement of the Muslim Brotherhood—who all of us I know have concerns about, but it was the statement of the Muslim Brotherhood supporting NGOs, supporting revision of the Mubarak law that seemed to be a major factor in unsticking what had clearly been a situation which day by day grew more and more of a crisis. I would ask my friend from North Dakota if he had that same impression.

Mr. HOEVEN. I wish to thank the esteemed Senator from Arizona for allowing me to join him on the floor today to talk about this very important issue that has had a favorable outcome. Even more importantly, I want to express my great appreciation and gratitude to Senator MCCAIN and Senator GRAHAM for organizing the opportunity for us to go over to Egypt, and to not only meet with our NGO workers at the U.S. Embassy, but to engage in conversations and meetings with military and government leaders on this very important issue.

It is not just these seven Americans we are very concerned about, and their safety—which obviously is paramount. But as Senator GRAHAM indicated, this situation clearly had ramifications for the relationship on a longer term basis between Egypt and the United States, and Egypt and Israel, particularly in regard to the peace treaty.

So taking this initiative to sit down with Field Marshal Tantawi, who is the leader of the military council, but also the leaders of the Freedom and Justice Party—which is the majority party now in the Parliament. Of course, that is the Muslim Brotherhood. We sat down with the Muslim Brotherhood as well. I think those meetings were extremely important in helping to foster an understanding that broke the logjam.

I too want to commend the work of our Ambassador, Ambassador Anne Patterson. She did an outstanding job. I want to thank Secretary Clinton and the people at the State Department for their diligent efforts. But I must say, having the opportunity to be part of a delegation led by Senator MCCAIN and Senator GRAHAM gave us the opportunity to talk to the Muslim Brotherhood, gave us the opportunity to talk to the leaders of the Freedom and Justice Party. And the next day they put out a statement, which I agree was very important in helping move things forward, because what they said in that statement involved two things, two things that I do think helped break the logjam; first, that they support nongovernment organizations. They support nongovernment organizations. They recognize that these NGOs do important work, and they want to address the laws in Egypt to make sure they have good laws that will enable the NGOs to continue.

The second thing they said, which I thought was particularly important, is they also expressed their concern about NGO workers, and that those NGO workers be treated fairly.

As Senator MCCAIN said, I hail from the State of North Dakota, and he knows I am going to say this. I can see the smile sneaking up on his face already. One of the NGO workers, one of the Americans detained under the travel ban whom I had the opportunity to visit with at the Embassy is a woman named Staci Haag. She has been over

there working. Needless to say, I was worried about all of our Americans. I was really worried about Staci, and making sure that she and her fellow workers—and of course, Secretary LaHood's son, Sam LaHood, but all of them, that they were able to get home safely.

Again, I think it was important in terms of fostering an understanding that I hope now will continue as we work to build relations with Egypt and their new government.

Mr. GRAHAM. Will the Senator yield?

Mr. HOEVEN. I will, to the Senator from South Carolina.

Mr. GRAHAM. And I will turn it back over to Senator MCCAIN.

I can tell you that very few people in Egypt, almost no one in Egypt realized somebody from North Dakota was being held. You were on message. You were very effective. I hope Staci and her family appreciate it, and I know they do. But for everybody—Sam, the NDI workers, the whole gang—we are proud of what they do.

Senator BLUMENTHAL is here, and I want people to know this is a bipartisan delegation. We had kind of a dinner meeting, when things were not going so well, about the idea of bringing our American citizens down to Egyptian court to be put at risk securitywise and maybe to be put behind cages—which would have destroyed the relationship. I think Senator BLUMENTHAL made it crystal clear that was not a good idea. And thank God it didn't happen.

With that, I yield back to Senator MCCAIN.

Mr. MCCAIN. I agree with my colleague from South Carolina. Senator BLUMENTHAL was very important, one, for bipartisanship, but also his background as a prosecutor.

At one point in all of this back and forth, one of the lawyers—who will be unnamed—said to Senator BLUMENTHAL that: Well, we probably have to go along with the advice of the lawyers. And Senator BLUMENTHAL, in a very succinct way, said: Well, maybe it is time to fire the lawyers.

So I want to thank Senator BLUMENTHAL for his involvement and the expertise and knowledge that he brought to this whole scenario because of his background as a prosecutor and attorney general of his State.

I guess I wonder, from my friend from Connecticut, if he believes that this kind of thing is something we should be emphasizing, these NGOs, so maybe we can prevent this in the future.

For example, when we visited Tunisia, the Tunisians have enacted a law that encourages the participation of these dedicated men and women who come and live and work in their country and help them build democracy. That was what was so—not enraging, but certainly it was so frustrating to hear these people who are only trying to build democracy. They weren't there to make money. They weren't contractors. They weren't anybody who was in business. They were just trying to help them build democracy, and they end up in the situation that they were in—which caused us from time to time to maybe grit our teeth, I would ask my friend from Connecticut.

Mr. BLUMENTHAL. I thank my colleague from Arizona who led this trip. Very enthusiastically and emphatically I would say the answer is, yes, we should be encouraging these nongovernmental organizations that are committed to the cause of democracy and human rights and civil society. Their work in Egypt and in places such as Tunisia and other areas of the Middle East, as well as around the globe where democracy and freedom are at risk and sometimes at great peril, has been enormously important.

I was so proud and grateful to be part of this trip led by Senator MCCAIN, and to hear and see the kind of respect there is in the world for his views, for his leadership, as well as for Senator GRAHAM's. And ''receptiveness'' is probably an understatement that Field Marshal Tantawi, leaders of Parliament, and others in Egypt had for his statements about the importance of allowing these Americans, these seven Americans, who committed no crime, to leave that country. The power of his and Senator GRAHAM's statements, the ability of our colleagues such as Senator HOEVEN and Senator SESSIONS to speak—not on behalf of the United States, because we were not there to negotiate—but on behalf of public opinion in the United States I think was very instrumental and shows the importance of the interchanges and the relationships that can be built when we interact face to face, on the ground, with our peers and contemporaries in foreign countries. Not that we were speaking as military people or as diplomats, but simply in reflecting the opinion of people in the United States that these Americans, innocent of any crime, should be permitted to leave the country.

Mr. MCCAIN. Didn't my friend from Connecticut find it striking that these new parliamentarians were most eager to have interparliamentary association with us? They wanted to come to the United States to have further relations between the two elected bodies. I was very impressed by that.

Mr. BLUMENTHAL. I would say, yes, indeed. I was extraordinarily impressed by their eagerness to see what democracy looks like as it works. Remember, some of these individuals have been in prison for long periods of time, some of them under the most brutal conditions, many of them tortured while they were there, with little exposure to the real world of democracy.

In answer to the question of the Senator from Arizona, it would be very helpful to them. In fact, on a number of occasions we invited them to come to this country.

But I would ask the Senator from Arizona and perhaps my other colleagues who are on the floor today to look ahead and to comment perhaps on what we can do to move in a positive way from here, because I think all of us feel Egypt is a linchpin for our relationship to that area of the world going forward. So much that is exciting is happening in that part of the world, and Egypt is so critical to it. So I would ask my friends from Arizona and South Carolina and North Dakota what they feel perhaps are positive steps we can take to build on this good step forward.

Mr. MCCAIN. Very briefly, before I turn to my other two colleagues, the day we arrived in Egypt there was a suppliers conference, companies and corporations from all over the world, ranging from companies such as General Electric, Boeing—the major corporations. It is very clear that the one thing they need is jobs—jobs and jobs and jobs. Their tourism has collapsed. Unless their economy improves, I think they are going to face some very significant challenges.

At least I was very happy to see a lot of American participation in that gathering. I think they said there were like 600 people in that room, all of them representing various businesses in the United States. And of course they are experiencing a hard currency crunch right now that is very significant.

Mr. GRAHAM. I think this is a very good topic to be talking about—the future—because this is an episode that could have destroyed the relationship before it had a chance to mature. What am I concerned about? I am still concerned about the development in Egypt. The Constitution will be written here in the coming months, by the summer. I want to make sure America's voice is heard about who we are. We hope that the Egyptian people embrace tolerance; that the Coptic Christians are going to be welcomed as they have been for centuries in Egypt; that religious minorities will be protected; that women will not be taken back into the darkness; that the Constitution will reflect an Islamic nation that understands the concepts of tolerance and free enterprise.

The Muslim Brotherhood will be the leading organization politically. It is up to them to create an environment where the world feels welcome. It is up to them to create an economy, working with their coalition partners. We will be watching. It is not what you say in politics, it is what you do. Apply that to all of us here. I think we are failing our people back in the United States by talking way too much and doing too little.

Between now and the summer can really be outcome-determinative for decades in Egypt. I am urging the Egyptian political leadership, the Muslim Brotherhood included, to write a constitution and create an environment where people believe they can come and visit Egypt and do business. Senator MCCAIN is dead-on. There is a lot of money to be made interacting with the Egyptian people, and they are

a proud people and smart people, and I want to get our businesses on the ground. I want to help the Egyptian economy develop through the private sector, not just the public.

I am the ranking member of the Foreign Relations Committee, working with Senator LEAHY, the chairman. We will be continuing to provide economic assistance, but the end game is to create a functioning society we can do business with where we can create jobs in America.

The main thing to do in the short term is maintain the military relationship. The reason Egypt did not become Syria when people were rising against the autocratic regime is because the Army stood by the people. The relationship we have had with the Egyptian military over 30 years really paid dividends. Egyptian officers coming to American military academies and schools has been invaluable.

As we go forward, maintain that relationship between us and the Egyptian Army, honor the treaty with Israel, make sure you write a constitution worthy of a bright future in Egypt, and to all the political leaders in Egypt: The world is watching, the Arab world is watching, and if you have a narrow agenda, if you have an exclusive agenda, you will be doing your country a disservice. We will be a willing partner but not under any and all circumstances. Maybe we have learned our lesson—that you cannot have partnerships without basic principles.

We look forward to working with the Egyptian Parliament and people. They have a chance to change the course of history in the Arab world and the Mideast. Don't lose the opportunity.

Mr. HOEVEN. I echo the sentiments of the good Senator from South Carolina. What I would like to add is I think that is exactly the right question to pose. The Senator from Connecticut says: Where do we go from here? I think that is right-on. There is no question in my mind but that the relationships Senator MCCAIN and Senator GRAHAM have built overseas made a difference for the United States and our foreign policy. This is a clear example of it.

When we sat down with Field Marshal Tantawi, when we met with other government leaders, even when we met with the Muslim Brotherhood, because of the fact that there was a relationship there, that they knew these individuals, there was some level of trust there that enabled us to engage in very important communications that produced a message that I think was integral to the resolution of this situation, which could have been a very bad one.

These relationships matter when we talk about working with other countries, particularly in that part of the world. There are so many differences between our countries and how we operate that having some relationships where people can sit down, have these discussions, and talk about how we work together and foster some future agreement and some mutual understanding is vitally important.

At the meeting with the Freedom and Justice Party parliamentary members, we invited them to come visit us. I think that would be very helpful and very important, not only so these new leaders and their parliament have a better sense of the United States and how we work and the kinds of relationships we can foster in both business and government but also so the Members of this Senate, of this Congress, and our people here get a better sense of them as well. I believe that is very important as we track forward with this new, young government that is now embarking on writing a constitution and governing in a vitally important country in the Middle East.

At this point, I would like to turn things back to the good Senator from Arizona, with my sincere gratitude.

Mr. MCCAIN. I thank my colleagues and dear friends. It was an exciting trip and a very interesting one. I would just like to say that when you go to a country such as Libya and see the challenges they have with the militias and yet the dedication of their leadership toward a free and democratic country; when you go into Libya, where both the Prime Minister and the Deputy Prime Minister both attended school or were professors at the University of Alabama, it really does show the incredible effect of an education in the United States of America.

Mr. GRAHAM. Will the Senator yield for just 1 second?

Mr. MCCAIN. Extremist, but anyway——

Mr. GRAHAM. Not only did we meet with people who came back to Libya from the University of Alabama—if there had been anybody from North Dakota, I would have known about it, I assure you.

We met a person who was detained at Gitmo—you talk about a small world and how the world changes—someone detained at Guantanamo Bay because they had been involved with some very unsavory characters but who did not adopt the al-Qaida agenda but will be a key player between the United States and Libya.

I want to mention—I think my colleagues will verify this—you have been nice to Senator MCCAIN and myself, but let me tell you, having the three Senators there, as Senator BLUMENTHAL said, echoing public opinion in America—we were not negotiators, we were trying to tell people the way it was here at home—we could not have done it without the three of you saying, here is the way it is.

But let me say, when Senator MCCAIN turned to the former Guantanamo Bay detainee and said: You know, I have been in prison, too, and about forgiveness and about starting over and starting a relationship in Vietnam—Senator MCCAIN and Senator KERRY did that—and about understanding that the future is what we want it to be, I thought it was a very moving moment. I think the interaction between the two individuals gave me a sense that there is hope out there.

I want to acknowledge that was an unusual moment, when you meet someone who had been in Guantanamo Bay, who is now one of the future leaders of Libya, and have a Senator from the U.S. Senate who served his country and was a prisoner of war—that was an incredible exchange. I hope something good comes from it.

Mr. BLUMENTHAL. It was an extraordinary moment but even more so because Senator MCCAIN asked a number of them—one in particular—about the impacts on their families and in that case, I believe, the impact on his wife. We tend to forget in this country—all too often we tend to take for granted the immense protections we enjoy in this country, the value of our freedoms.

That moment was profoundly moving for me, and his reaction in the realization of how far he has come as a leader in his country, how much he has endured, how much pain and travail for him and his family. It was a striking reminder about the importance of democracy and freedom and the protections we often take for granted and the great work being done by those nongovernmental organizations in fostering freedom and democracy, sometimes at peril or risk to themselves.

The Senator from South Carolina has hit a very important point, and it ties to what Senator MCCAIN said about the suppliers conference in Egypt. These principles and the growth of democracies in that part of the world are important, not just because we like democracy and not just because of the strategic value, militarily, and the interests that our national security has, but also they are potential markets for our exports. The Senator from South Carolina used that word. People should understand that there is an important interest that we have in promoting jobs in those countries because it will be jobs for us. That is, at a very basic level, one of the values of this trip, trying to promote and expand those markets, as Senator MCCAIN did in speaking at the suppliers conference in Cairo to hundreds of Egyptian businessmen wanting to do business, buy our products, and expand their markets.

I yield.

Mr. MCCAIN. I note the presence of my colleague from Vermont. I once again thank my colleague. Every once in a while we can think we did a little bit of good around the world, and thanks to the five of us, I think we really did. I think we can be proud.

We are also proud that we represent, still, in their view and our view, the greatest Nation in the world.

I yield the floor.

Mr. HOEVEN. Madam President, I request 10 minutes to speak in regard to a resolution.

The PRESIDING OFFICER (Mr. SANDERS). Is there objection? Without objection, it is so ordered.

(The remarks of Mr. HOEVEN and Mr. BLUMENTHAL pertaining to the submission of S. Res. 386 are located in today's RECORD under ''Submitted Resolutions.'')

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—Continued

Mr. REID. Mr. President, it is my understanding the business before the Senate now is the surface transportation reauthorization bill; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Does that need to be reported?

The PRESIDING OFFICER. It has already been reported.

AMENDMENT NO. 1730 WITHDRAWN

Mr. REID. Mr. President, I withdraw amendment No. 1730.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

AMENDMENT NO. 1761

(Purpose: To make a perfecting amendment)

Mr. REID. Mr. President, I have a first-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1761.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. REID. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1762 TO AMENDMENT NO. 1761

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1762 to amendment No. 1761.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 1762

At the end, add the following:

SEC. ___. EFFECTIVE DATE.

This Act shall become effective 7 days after enactment.

MOTION TO RECOMMIT WITH AMENDMENT NO. 1763

Mr. REID. Mr. President, I have a motion to recommit the bill with instructions, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] moves to recommit the bill, S. 1813, to the Committee on Environment and Public Works with instructions to report back forthwith with an amendment.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 1763

At the end, add the following new section:

SEC. ___.

This Act shall become effective 6 days after enactment.

Mr. REID. Mr. President, I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1764

Mr. REID. Mr. President, I have an amendment at the desk, and that amendment is to the instructions that we have already set forth.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1764 to the instructions (amendment No. 1763) of the motion to recommit.

The amendment is as follows:

In the amendment, strike ''6 days'' and insert ''5 days''.

Mr. REID. Mr. President, on that amendment I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1765 TO AMENDMENT NO. 1764

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1765 to amendment No. 1764.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment, strike ''5 days'' and insert ''4 days''.

Mr. REID. Mr. President, let me take a moment where we are in this important surface transportation reauthorization bill. No one disputes the fact that this is a job creator. Millions of jobs, plural. Today with the Senate's vote to dispose of the Blunt amendment, the Senate completed an important step to advance this bill. The Republican leaders on the Republican side made clear that they would not allow the Senate to move forward on this piece of legislation until they got a vote on contraception. We waited and waited. It is done. Now we can move on to attempting to process other amendments to this important piece of legislation.

Not everything ground to a halt while the Senate was working toward processing the Blunt amendment. The bill's able managers have been working to clear amendments offered by a number of Senators. As I have said before, the managers of this bill—multiple in nature—are seasoned and know what is going on legislatively. They worked together, Senators BOXER and INHOFE especially, because there is more of what they have in this bill than what other committees have. But we have the Banking Committee, the Finance Committee, the Commerce Committee, and they have all worked together in coming up with a number of cleared amendments. All of these Senators have worked closely together. They worked so closely even before the work over the past week, and on February 9, 85 Senators voted on cloture to proceed to the bill. And as I have indicated, over the last several weeks they have continued to work together and clear numerous amendments that Senators have filed.

I offered a revised amendment a few minutes ago. This amendment includes the very same consensus that comes from the product of these three committees regarding my earlier amendment. It includes matters reported unanimously by the Banking Committee, strong bipartisan vote with the Finance Committee, matters negotiated between the chairman and ranking member of the Commerce Committee.

What is new in the amendment I just offered is that it now also includes 37 additional amendments cleared by the managers of this bill and, where appropriate, cleared by other committees, specifically the Commerce Committee and the Banking Committee. Thirty-seven amendments. So that is now part of my substitute that is now before the Senate.

I would be very satisfied if the Senate adopted this amendment, and provided that it serve as additional text for purpose of further amendment. The two managers will work to clear additional amendments.

We need a path forward on this bill, and we don't have it now. We continue to work on an agreement to have votes on a number of nongermane amendments which the Republican caucus says they want. And our side, if they want amendments, we could have some nongermane amendments also. I would rather we disposed of the nongermane amendments, and I am thinking seriously of coming to the floor today and asking consent that we move forward on this bill with no irrelevant or nongermane amendments.

It is vital that we complete work on this surface transportation reauthorization bill. I am determined that the Senate will do so and do so as quickly as possible. Doing so will take cooperation from different Senators, so we

need to keep our eye on the road. We need to get this legislation passed. Saving or creating up to 2.8 million jobs is the destination of this path that we are seeking. Let's work together to get there as soon as possible.

ST. CROIX RIVER VALLEY BRIDGE

Ms. KLOBUCHAR. I come to the floor today on another topic; that is, to thank and congratulate the House of Representatives, which earlier handed a great victory to the people of Wisconsin and Minnesota by passing legislation that will finally allow construction to begin on a stronger, safer bridge in the St. Croix River Valley. After 30 years of debate and delay, we have finally gotten it done, and I am proud to say it was done with broad support in both Chambers.

The legislation I introduced in the Senate to allow this bridge to be built passed unanimously in January, and our Senate bill has passed the House today with the overwhelming backing of 339 Members, making the final vote count 339 to 80. This was truly a team effort, and it is an inspiring example of what we can accomplish when we are willing to put politics aside and come together to do what is right for the people we represent.

I thank my colleagues in the House for their hard work and dedication in moving this legislation forward: Representatives RON KIND, SEAN DUFFY, MICHELE BACHMANN, CHIP CRAVAACK, and TAMMY BALDWIN. I also thank Secretary Ray LaHood and his staff at the Department of Transportation, as well as Governors Mark Dayton and Scott Walker for their leadership at the State level.

In both Minnesota and Wisconsin, there is overwhelming consensus about the critical need for a new bridge in the St. Croix River Valley. There are sometimes disputes on what that bridge should look like, but there tends to be consensus that we simply can't have a lift bridge built in the 1930s, with 18,000 cars going over it. The current lift bridge was built in 1931. Chunks of rusting steel and concrete fall off and into the river below. Traffic backs up behind it, especially in the summer months, sometimes for a mile. Cars are lined up by houses, cars are lined up by businesses, and it is not a desirable situation for anyone in the town of Stillwater.

The Minnesota Department of Transportation has listed the bridge as being ''structurally deficient'' and ''fracture critical,'' meaning if one component of the bridge fails, the entire structure fails. Simply put, the bridge cannot meet the needs of the region either in terms of public safety or in supporting traffic caused by a growing population.

As the bridge has aged, we have seen significant increases in congestion. This is an especially big problem in the summer months when the bridge lifts frequently to allow watercraft to pass, causing traffic to back up on both sides of the bridge, increasing gridlock and air pollution, hindering economic activity, and threatening public safety, particularly when emergency vehicles are unable to pass through.

Here are the numbers: The current structure was designed to support 11,200 vehicles a day. It cannot handle the average of 18,400 cars that cross it every day, let alone anticipated increases in usage. But with this new bridge, 48,000 vehicles will be able to cross safely and efficiently every day. This is important from a public safety perspective, but it also means new channels for economic growth. Without a new bridge, anticipated usage would reach 23,500 by 2030. With a new bridge, anticipated usage will meet 43,000 vehicles per day. Those 20,000 additional vehicles will mean more opportunity for local industry and more customers for local businesses made possible by an infrastructure capable of supporting new growth and development.

When we look at the numbers, it is easy to see why my Senate legislation was able to pass not only the Senate without any opposition, but it is easy to see why the House passed the bill by such a wide bipartisan margin. We are less than an inch away from the finish line. Now we need the President of the United States to sign the bill.

I spoke with Secretary LaHood this morning. I don't anticipate there will be an issue. He was very positive about the bridge. But we need a prompt signature. The people of Minnesota and Wisconsin have already waited 30 years. They cannot afford to wait any longer. We cannot afford to delay. It is time to finally get this bridge done.

I, once again, thank all of my colleagues who worked hard to advance this bill. MICHELE BACHMANN in the House led the effort on the Minnesota side, and I led the effort in the Senate. I thank the other Senators who were so good to support this bill, including Senator FRANKEN, Senator KOHL, and Senator JOHNSON.

I look forward to standing with all of my colleagues when the President signs this bill into law. I look forward to standing with my colleagues again on that proud day in the near future when we finally break ground on a stronger, safer bridge for the St. Croix River Valley.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

PROGRESS FOR DEAMONTE DRIVER

Mr. CARDIN. Mr. President, today I come to the Senate floor to mark the fifth anniversary of Deamonte Driver's death. Deamonte was a 12-year-old who lived in Prince George's County, MD, only a few short miles from here. He died 5 years ago at the Children's National Medical Center in Washington, DC, from a brain infection caused by an untreated tooth abscess.

The Driver family, like many families across the country, lacked dental insurance. At one point his family had Medicaid coverage, but they lost it because they had moved into a temporary shelter and their paperwork fell through the cracks. When advocates for the family tried to help, it took more than 20 calls just to find a dentist who would treat him.

Deamonte began to complain about headaches on January 11. Then, an evaluation at Children's Hospital led beyond basic dental care to emergency brain surgery. He later experienced seizures, and a second operation was required. Even though he received additional treatment and therapy, and he appeared to be recovering, medical intervention came too late. By the end of his treatment, the total cost to our health care system exceeded $¼ million—more than 3,000 times the $80 it would have cost for a tooth extraction.

Deamonte Driver passed away on Sunday, February 25, 2007. Deamonte's death was a national tragedy. It was a tragedy because it could have been prevented if he had received timely and proper basic dental care. It was a tragedy because it happened right here in the United States, in one of the most affluent States in the Nation. It happened in a State with one of the best dental schools in the Nation—the University of Maryland's. It happened in Prince George's County, whose border is less than 6 miles from where we are standing in the U.S. Capitol.

I have spoken on the Senate floor about Deamonte Driver several times since that tragedy, and in the intervening years, in both my home State of Maryland and nationally, we have made progress. When Deamonte's case was brought to light, I believe it served as a wake-up call for our Nation. It brought home what former Surgeon General C. Everett Koop once said: ''There is no health without oral health.''

Medical researchers have discovered the nexus between tooth plaque and heart disease, that chewing stimulates brain cell growth, and that gum disease can signal diabetes, liver ailments, and hormone imbalances. They have identified the vital connection between oral health research and advanced treatments such as gene therapy, which can help patients with chronic renal failure. They know investing in basic dental care can save money down the road in costly medical interventions for other diseases.

But for all the research findings, without insurance coverage and adequate access to providers, we know millions of children and adults will have oral health care needs that remain unmet. That is why the progress we have made over the past 5 years is so important to America's health. So I have come to the floor today to talk about what we have achieved and how we can move forward as a nation to ensure better access to oral health care.

The Maryland delegation is proud that Maryland has emerged as a national leader in this area, launching a $1.2 million oral health literacy campaign, raising Medicaid reimbursement rates for dentists, and providing some

allied health professionals and hygienists the opportunity to practice outside of clinics. Today, the Deamonte Driver Dental Project Van, which was dedicated in front of the U.S. Capitol in May 2010 provides services in underserved neighborhoods in Prince George's County, thanks to the efforts launched by members of the Robert T. Freeman Dental Society. This society, an arm of the National Dental Association, is named for Dr. Robert Tanner Freeman, who in 1869 became the first Black graduate of the Harvard School of Dental Medicine.

Congressman ELIJAH CUMMINGS and I were joined that day by Mrs. Alyce Driver and her sons; the project's cofounders Drs. Hazel Harper and Belinda Carver-Taylor; and the National Dental Association President, Dr. Walter Owens.

In 2009, 2 years after Deamonte's death, Congress took up the reauthorization of the Children's Health Insurance Program. In a frustrating attempt to locate a dentist for her child, Deamonte Driver's mother and her advocates had to contact numerous offices before locating one who would treat him.

For a variety of reasons, it is difficult for Medicaid and CHIP enrollees to find dental care, and working parents whose children qualify for those programs are likely to be employed at jobs where they can't spend 2 hours a day on the phone to find a provider. So part of the CHIP reauthorization now requires HHS to include on its Insure Kids Now Web site a list of participating dentists and benefit information for all 50 States and the District of Columbia.

Also, in 2009, Congress passed the Edward M. Kennedy Serve America Act. That law created the Healthy Futures Corps, which provides grants to the States and nonprofit organizations so they can fund national service in low-income communities. It will allow us to put into action tools that can help us close the gap in health status—prevention and health promotion. For too long we have acknowledged health disparities, studied them, and written reports about them. With the help of the senior Senator from Maryland, my colleague, Senator BARBARA MIKULSKI, we added language to that law specifying oral health as an area of focus.

Now the Healthy Futures Corps can help recruit young people to work in the dental profession, where they can serve in areas that we have shortages of providers in urban and rural areas. It will fund the work of individuals who can help parents find available oral health services for themselves and their children. It will make a difference in the lives of the Healthy Futures Corps members who will work in underserved communities and in the lives and health of those who get improved access to care.

Then, in 2010, we passed the Affordable Care Act which guarantees pediatric oral health care as part of each State's essential benefit health care package. The law also establishes an oral health care prevention education program at the Centers for Disease Control and Prevention targeted toward key populations, including children and pregnant women, and it created demonstration programs to encourage innovation in oral health delivery. It also significantly expanded workforce training programs for oral health professionals.

Moving forward, the States have a critical role to play in ensuring that the Affordable Care Act benefit is designed to incentivize prevention, recognize that some children have greater risks of dental disease than others, and deliver care based on their level of risk. Among the most cost-effective ways to improve children's health care are investments in prevention. Dental sealants—clear plastic coatings applied to the chewing surfaces of molars—have been proven to prevent 60 percent of tooth decay at one-third the cost of filling a cavity. So we must make sure prevention is a key part of every State's benefit package.

Further, in 2010, the U.S. Department of Health and Human Services launched its oral health initiative, establishing a coordinated multiagency effort to improve access to care across the Nation.

Yet for all the progress we have made, we know more must be done. In 2009, the last year for which we have complete data that is available, more than 16 million American children went without dental care. That is not acceptable.

Our Nation has made significant progress in improving children's dental care in the 5 years since the death of Deamonte Driver, but there is still much work to be done.

Case in point: Last summer, 24-year-old Kyle Willis of Ohio died from an untreated tooth infection that spread to his brain. In fact, the health of millions of Americans is jeopardized because they cannot get treatment for tooth decay.

The access problem has become so severe that many people are forced to seek treatment for tooth pain in the Nation's emergency rooms, increasing the overall cost of health care and receiving uncoordinated care in the least cost-efficient setting. In fact, more people seek treatment in emergency rooms for tooth pain than they do for asthma.

The Pew Children's Dental Campaign produces report cards that grade the States on eight policies that are evidence-based solutions to the problem of tooth decay.

Maryland received an A grade in both reports for meeting or exceeding these benchmarks, which include dental sealant programs, community water fluoridation, Medicaid reimbursement and enrollment, and collection of data on children's dental health.

This is even more striking because in the late 1990s, Maryland had one of the worst records in the Nation regarding oral health care for its underserved population. But in 2011, the Pew Center on the States ranked Maryland as the top State in the country for oral health.

However, the access issues remain. As Mrs. Driver's efforts to find care for her son showed, low-income families have great difficulty obtaining care due to a shortage of dentists willing to treat Medicaid patients.

Nationally, the National Health Service Corps addresses the nationwide shortage of primary care oral health providers in dental health professional shortage areas by offering incentives in the form of scholarships and loan repayments to primary care dentists and registered dental hygienists to practice in underserved communities.

I will continue to work to increase funding for grants to States and expand training opportunities for dentists. We do not have enough professionals who are trained and available to treat children and adults with dental problems, and it is our responsibility to fix that. We must improve reimbursement to dental providers in offices and clinics so no one who needs dental treatment will be turned away.

I conclude my remarks with congratulatory wishes to Mrs. Alyce Driver. For as painful as Deamonte's passing was for all of us, nothing can compare to the loss of one's own child. Yet Mrs. Driver has worked hard and she has been awarded a dental tech degree. She is now out there helping others with dental care. She will be going back to school next month to receive training in radiology. Yes, in Maryland and throughout the Nation, there are signs of hope for the future of oral health care.

February is National Children's Dental Health Month, and I wish to express my appreciation to the many nonprofit organizations, universities, and providers who are also working across the Nation to make sure we will never forget Deamonte Driver and never forget our responsibility to improving oral health care for America's children.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. BARRASSO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Mr. BARRASSO. Madam President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GAS PRICES

Mr. BARRASSO. Madam President, I come to the floor to talk about something that is on the minds of people in my home State of Wyoming and people across the country, the high cost of

gasoline. When I filled up on Sunday evening in Wyoming and on Monday morning on the way to the airport I noticed that the price of gasoline in Wyoming was 10 cents higher per gallon than it was Sunday night when I filled the tank. I am heading back this weekend, later today, to Wyoming, and we will see what the cost of a gallon of gasoline will be. I know absolutely that the price of diesel fuel is much higher, almost by a dollar a gallon, than the price of regular unleaded gasoline.

I think it is something that is happening all across the country because even in this morning's New York Times, Thursday, March 1, 2012, on the front page, a headline reads ''Tensions Raise Specter of Gas At $5 a Gallon.'' That is on the front page of the New York Times. It says, ''Gasoline for $5 a gallon? The possibility is hardly farfetched.''

It goes on to say:

> With no clear end to tensions with Iran and Syria and rising demand from countries like China, gas prices are already at record highs for the winter months—averaging $4.32 in California and $3.73 a gallon nationally on Wednesday, according to the AAA's Daily Fuel Gauge Report. As summer approaches, demand for gasoline rises, typically pushing prices up.

Again, ''no clear end to tensions in Iran and Syria and rising demand from countries like China. . . .''

It is interesting because, obviously, China is the country that told the Prime Minister from Canada recently: We will buy all that extra oil you have that apparently the President of the United States isn't interested in, as he continues to block the Keystone XL Pipeline.

That is what the American public is facing today, rising prices and an administration that continues to block access to an important source of safe, secure energy, as opposed to sending so much money overseas. Here we are with high gasoline prices, which is continuing to cause additional hardship for American families and American businesses. When families pay more at the pump, it impacts the quality of their lives. Families are dealing with mortgages, goods and services, and their kids as they continue to see the money going to fill the tank. This also hurts economic growth and our ability to create jobs.

When companies pay more for gasoline, they have less money to expand their businesses and create new jobs. Wyoming families and businesses know this all too well because in Wyoming we drive longer distances than most Americans. The President also knows this impacts the economy. That is why he continues to give speeches on energy.

It is clear the President is defensive on this issue, and it is understandable because the average price of gasoline, regular unleaded, the day he became President—today it is 103 percent higher, over double what it was the day President Obama took office just 3 years ago. Again, the price of gasoline is 103 percent higher than the day the President took office.

There are a lot of factors at play. What this does show is that the President's policies are at best ineffectual; at worst they are contributing to the higher gas prices. People on both sides of the aisle know this and are hearing it at home. This week, actually, one Senate Democrat wrote to the Obama administration and pointed this out. Specifically, he pointed out that these are ''the highest prices we have ever seen for this time of year.''

Unfortunately, that Senate Democrat's solution is to request that Saudi Arabia produce more oil. I will repeat that. His solution is to have the Secretary of State ask Saudi Arabia to produce more oil.

Of course, the President is also considering other proposals as well. Like asking Saudi Arabia to produce more oil, the President's ideas would put national security at risk. There I am referring to the President's threat to tap the Strategic Petroleum Reserve. This will be the second time that President Obama has tapped the Strategic Petroleum Reserve. Prior to the President's decision to do that last June, it had only been tapped twice for emergencies since 1975. So between 1975 and 2011, the Strategic Petroleum Reserve had only been tapped twice for emergencies—in 1991 upon the outbreak of the Persian Gulf war and then again more recently following Hurricane Katrina.

In both of these instances we are talking about actual supply disruption. However, when President Obama tapped the Reserve last year, there was no substantial prospect of a supply disruption. The decision was based on politics, as would be the decision this time. That is why Jay Leno, earlier this week during his nightly television show, called the Strategic Petroleum Reserve President Obama's strategic ''reelection'' reserve.

A number of my colleagues and I think there are other ways to address high gasoline prices. We understand the Strategic Petroleum Reserve is for emergencies, not political disasters.

It is interesting because just earlier today, the House minority leader NANCY PELOSI endorsed tapping the Strategic Petroleum Reserve—not because of an emergency or a crisis or supply disruption, but she says ''to combat rising gas prices.''

There is only so much oil in the Strategic Petroleum Reserve. The amount that was taken last year was never put back in to fill the tank. The amount taken out last year was sold. If we use that money to fill the tank, it is not enough—almost $1 billion more this year to fill the tank than what they got for selling what they took out last year.

So we have a tank at the Strategic Petroleum Reserve that is not full, still waiting to be filled from what was taken from it last year. Now, here we are a year later, and the President, as well as NANCY PELOSI, is considering tapping the Strategic Petroleum Reserve again, drawing it down again, making us that much more vulnerable in case of a true emergency.

The President actually has some options that make a lot of sense to a lot of Americans. An option, of course, is to increase American energy production. The President can begin to follow through on his words in Miami a week or so ago, when he said, ''I'll do whatever I can to develop every source of American energy.''

The President can provide more access to Federal lands and waters. This week we learned the oil and gas production on Federal public lands and public waters is down. In 2011 there was a 14-percent decrease in oil production on public lands and water from 2010—less energy produced in Federal lands and waters. There was an 11-percent decrease in gas production from 2010.

In Miami, the President said he has ''directed my administration to look at every single area where we can make an impact and help consumers in the months ahead, [including] permitting. . . .''

Again, the President needs to follow through on his words. He can begin by increasing the number of permits issued for development in the Gulf of Mexico. I understand that the administration has issued only 21 permits so far this year. In 2010 the administration issued 32 permits by this time.

The President can also increase access to other offshore areas. He can provide access to offshore areas in the Atlantic and the Pacific Oceans, not just the Gulf of Mexico. In November he proposed an offshore leasing plan that excluded the Atlantic Ocean and the Pacific Ocean. What kind of offshore leasing plan is that? The President excluded areas off the coast of Virginia, even though both Senators and the Governor of Virginia supported such energy exploration. The President said no.

The President can also increase access to onshore areas. The President can open areas in Alaska, and he can support proposals to open ANWR. Both Senators from Alaska—one Republican and one Democrat—and the Governor strongly support opening ANWR for exploration. The President should too. The President should also take steps to facilitate onshore exploration in the West. Specifically, he should scrap new regulations requiring what is called ''master leasing and development plans.''

These regulations were put into place over 2 years ago by the Secretary of the Interior. It is unclear why the Secretary issued such regulations. They add more redtape and cause more bureaucratic delay and slow down American energy production.

Of course, there are other regulations that drive up the cost of American energy—specifically, the EPA's forthcoming tier III regulations which will affect America's refineries. A recent study says this rule could increase the

cost of manufacturing gasoline, which will add to what Americans are paying at the pump and will add to the pain at the pump. They could also raise operating costs for refineries by anywhere from $5 billion to $13 billion a year. They could force as many as seven U.S. refineries to shut down and could lead to a 7- to 14-percent reduction in gasoline supplies for American refineries. These policies, by this administration, are completely unacceptable. The President should, at the very least, delay the issuance of this current rule.

In addition to providing more access to Federal lands and Federal waters and eliminating burdensome regulations, the President should follow through on his words—his words—and address what he called delivery bottlenecks. Specifically, he should address the bottlenecks the Keystone XL Pipeline would relieve. I am referring to 100,000 barrels of oil a day that the pipeline would be able to ship from Montana and North Dakota.

That is right; we are talking about homegrown American energy. Of course, the President ought to approve the Keystone XL Pipeline coming in from Canada. It is North American oil from Canada but specific and significant amounts of oil—100,000 barrels a day—from Montana and North Dakota. Right now, there isn't sufficient pipeline capacity out of North Dakota and Montana. They are shipping the oil on trucks and trains, and that is much more expensive than shipping it by pipeline. Approving the Keystone XL Pipeline is an easy decision and the President should make this decision immediately.

It was interesting today to see in Politico—one of the local papers on Capitol Hill—an article quoting Bill Clinton as saying, ''We should embrace'' the Keystone XL. The first sentence of the article says:

Bill Clinton says it is time to build the Keystone XL Pipeline.

Perhaps President Obama ought to listen to President Clinton.

Finally, the President says there are no silver bullets. That doesn't mean the President should sit on the sidelines. It doesn't mean his only options are asking Saudi Arabia to boost production or opening the Strategic Petroleum Reserve. The President needs to promote American energy production. He can eliminate costly regulations and he can approve the Keystone XL Pipeline. Those are the steps the President needs to take, and he needs to do that in the very near future because I believe we are going to continue to see headlines such as the one in today's New York Times: ''Tensions Raise Specter of Gas at $5 a Gallon.''

With that, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF MARIE COLVIN IN SYRIA

Mr. WHITEHOUSE. Madam President, Marie Colvin died last week, Wednesday, in Syria. As I speak, her body is still in Homs because the Assad regime refuses to honor the centuries-old tradition of human decency that even in war you are allowed to recover your dead.

An American official in a position to know about the circumstances of her death has used with me the word ''murder,'' and this is not an official who uses such words loosely. News reports have suggested Marie was targeted using her cell phone signals. Why was she killed? Marie once said: ''Covering a war means going to places torn by chaos, destruction, and death, and trying to bear witness.''

She was killed because she was doing what she was passionate about and what her gift was; that is, to bear witness.

Marie was in Syria to bear witness to the massacre of the innocent in the city of Homs by the Assad regime. Her last report to the BBC was of a baby killed by shrapnel, dying in its mother's arms. That baby had no voice and that mother had no voice, but Marie was there. She was there making sure the dead did not die unheralded and the killers did not escape unwatched. She was there so they wouldn't get away with it. She was there to bear witness.

The dictionary tells us that to bear witness means ''to see, to be present at, or know at firsthand.'' It means to ''testify.'' It means ''to show by your existence that something is true.''

This was Marie. Over and over she put herself in harm's way as she followed her calling to bear witness to the atrocities of our world.

In Sri Lanka's brutal conflict, she was hit by the explosion of a rocket-propelled grenade, and in addition to other injuries, she lost sight in one eye. She was shot at that day after calling out, ''I'm a journalist.''

In the Balkans and Chechnya, at Libya and around the world, she went to bear witness to suffering and corruption. I think she spent more time on the ground in Libya than any other Western correspondent.

Marie was proud of this work, saying:

We can and do make a difference in exposing the horrors of war and especially the atrocities that befall civilians.

Sometimes she managed to do more than just expose atrocities. In East Timor, she went to bear witness to the massacres. When the U.N. threatened to pull out of a base, leaving local employees and those sheltering there to the mercies of the massacre, Marie announced, ''I'm staying with them.''

That created a new predicament for the U.N. leadership, and faced with Marie's courage, they decided to stay. Massacre averted.

Marie was special. Her friends all knew it. Her colleagues knew it. The people who were trapped in the wars and conflicts she covered and who saw her there, sharing their risks and their suffering, and who knew someone would bear witness knew it. The Bible talks of bearing witness. It tells that John the Baptist ''came as a witness, to bear witness about the Light, that all might believe through him.''

There is a parallel. Marie went as a witness. She went to bear witness in the places cloaked in darkness, that we all might perceive through her. With her death, it is our turn to bear witness. Marie Colvin had a calling, and it is our turn to bear witness to the courage and the passion of that calling. It is our time to bear witness to the grace and humor and brains and skill with which Marie Colvin pursued that calling. It is worth noting Marie did this all with style. I don't think Marie would want the record to fail to reflect that she had style.

There has been an outpouring since the news of Marie's death spread around the world. From heads of state, famous writers, press celebrities, from old friends and colleagues, and from those whose praise she valued the most, the small band of brothers and sisters who practiced the dangerous craft of conflict journalism, there has been a torrent of grief and praise. I have culled from this torrent a collection of remembrances, reflections, tributes, and obituaries about Marie that I now ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Yale Daily News, Feb. 23, 2012]

FROM THE ARCHIVES: COLVIN '78 RELECTS ON YALE CAREER

(By Marie Colvin)

The piece below, titled ''Running out of time,'' was written by Marie Colvin '78 for the special issue of the News handed out at Commencement 1978. Colvin, a seasoned war correspondent, was killed by a mortar strike on Wednesday while covering the escalating violence in the city of Homs.

The most memorable event of my Yale career occurred in the dining hall. At Silliman lunch last week, I was eating and commiserating with a group of fellow seniors, slaphappy at the thought of all the work to be done in the last week of term. Everyone had a how-to story, the kind that only circulates at finals time, like the one about the student who handed in a bluebook with ''IV'' written on the cover, inscribed with one sentence on the first page: ''and that's the way it was in seventeenth century England,'' and received a final grade of ''B'' from some T.A.; talk about surefire dean's excuses and where to catch a quick 24-hour bug, always good for a night at DUH.

At a pause in the conversation, during which I flashed on the twelve pages per day I'd have to write for the next week, a friend next to me sighed and said profoundly, ''There's just not enough time.'' It came out of the blue, but it was the most relevant non-sequitur ever uttered.

It sums up my Yale career. I've spent the last weeks of every semester holed up in the Sillibrary, coffeepot by my side, moving from one stack of books and clutter of papers to the next like a guest at the Mad Hatter's Tea Party. The last week of my senior year I was there again, drinking coffee by the pot,

sleeping two hours nightly, marshaling enough credits to graduate.

That's why I wasn't a varsity athlete, or an editor of the Oldest College Daily, why every room I've ever lived in has been almost furnished. It's why my papers come back marked ''good potential, inadequately realized.'' And it's why I can't tell you what it feels like to be finished with Yale, whether it's euphoric or just anti-climatic, because I'm not, and by the time I am everyone will have left and I won't even be able to ask anyone.

It takes everybody but the football team four years to realize that there is no way to do the work expected of you, that teachers and deans don't really expect you to do it all and that the real test of intelligence is to do the minimum amount of work for the maximum reward. The football team somehow learns freshman year what it takes everyone else three years (it took me four). The most important things to look for when choosing a course are not relevancy to future career, interesting subject, or something you should know. Number of papers and pages per paper, number of exams, and Course Critique grade point spread are all you need to look for. And if the football team shows up for the first lecture, you've chosen correctly.

The finer points of course selection involve arranging enough of a workload so that when you do go out to Rudy's, Mory's, or the Elizabethan Club for tea you can feel a twinge of guilt. And so that you can participate in end-of-semester-conversations.

The worst thing about graduating is that I can't remember what I did all semester. I thought I was working, but that seems impossible. I've started promoting the theory that Yale is centered in a time warp. Time doesn't just seem to pass twice as fast, it does. We have only one week to the universal two.

I haven't accepted the fact that I am not going to do everything I kept putting off. I am not graduating Phi Beta Kappa, I don't have 48 credits and 47 A's, I will never read the bookcase of course books diligently bought in the Co-op, lined up neatly with their binders unwrinkled. I will not paint the fourth wall in my bedroom. I will probably never even find out the name of that curly-haired boy in my English seminar I've been flirting with all year.

It's hard to say even what I've learned here. I don't think I've finished adjusting yet. I have nothing striking to say about anything and it seems like I should. I've changed from a regular science major to a science major who only takes English courses (there was no time to change majors), learned about weenies, jocks, and turned-up collars, learned how to run, not fast but far enough to enjoy the sweat, learned how to do footnotes. Unlearned a lot too—like weenies and jocks don't exist and that turned-up collar means zilch. And I've learned how ridiculous it is to try to convince people that you are serious about something, that you have a direction. Best of all, I missed all the deadlines—LSAT, GRE, scholarships, grants, and fellowships—not enough time—so I guess I'll wake up Tuesday morning and start thinking about it. Or else just buy a plane ticket.

The one realization I have come to after four years is that I can still make all the mistakes I want and it doesn't matter. I remind myself of this often, whenever I feel the ''let's get serious mood'' coming on, or I lunch with law-business-medical school prospectives, or read an article about shopping bag ladies in the New York subway system. Not that there's anything at all wrong with going to law-business-medical school, but enough people stick up for it, and that's not the point anyway.

The point is that it doesn't matter if you mess up, choose the wrong road, flop in Vegas. What's important is to throw yourself in head first, to ''go for the gusto.'' And if you blow it, you blow it. What we have to worry about now is success. Once you're successful, it becomes embarrassing to make mistakes, and more difficult to grab onto the nearest straw and hold on. You can always be a star, so what's the rush?

MARIE COLVIN—THE NATURAL

(By Allison Silver)

I have been reading all day about Marie Colvin, the terrific London Sunday Times foreign correspondent who was killed Wednesday in Syria. David Remnick wrote a lovely piece about her. It captures her coolness and professionalism.

Marie was a remarkable writer—and person. Talented and persistent: An unbeatable combo.

I knew her back at Yale, and she often cited me as the person who started her writing. And I think I was. Her mother, Rosemarie Colvin, described Wednesday how her daughter had decided to be a journalist back when she was writing for The Yale Daily News.

I was an editor on the Yalie Daily when Marie was in a seminar with me. She was funny and savvy and amazing looking. Tall and slim, with a baby face surrounded by masses of black corkscrew curls. Her best friend was equally tall—and they stood out on campus.

She hung out with all the campus ''writers''—who took prestigious writing classes but wouldn't deign to take part in the hurly-burly of daily campus journalism. They were serious writers—and serious partiers. I knew most of them—but her least of all. She was not quite regarded as a ''writer,'' like they were.

In that class, I realized Marie had a clear, clean talent for writing. So I kept on her to write for me at the News. She started doing longer reported feature pieces—and thrived.

I could see she was jazzed by the process of reporting. She had started off insisting that she was not the writer of the group. And I kept saying to her you can do this. So do it! And she did. She was a natural.

With all that persistence, of course she pursued it and went on to serious international reporting. I remember, back in the 90s I think, she was one of the elite Middle East reporters who attained an interview with Qadhafi—a feat she pulled off again recently.

Meanwhile, I'm still a desk jockey. As my career took me to Los Angeles, New York and DC, she was reporting from hot spots around the globe. I rarely saw her, which is something I will always regret. But whenever I ran into her, we talked about Yale and our varied paths from there.

She lived the life she wanted to. And that is to be admired.

TRIBUTE TO MARIE COLVIN

(By Gerald Weaver)

Marie Colvin sat across the table from me in the kitchen of her Thames-side home in the Hammersmith neighborhood of London on October 18, 2011, as she looked me in the eye and gave me a completely unexpected answer to a question I had long planned to asked her. ''So, Marie, do you have some kind of a death wish or something?'' I had asked, waiting and watching her intently. I had expected that she maybe she would react a bit too defensively or that she might have otherwise partially admitted to the premise of the question. But I realized immediately that it had been the quintessential stupid question. The gist of her answer was that these were normal people who were being attacked, bombed, uprooted and murdered in the stories she was uncovering and reporting. The normal people who would read her reports should have a normal reaction to them, she said. And by that, she meant they should be appalled and horrified. So for Marie it was merely normal to pick up and go find the most terrible story that no other reporter would cover and then report it as a matter of fact. The danger simply did not occur to her. She neither feared nor courted it. As I listened to her, I heard the word ''human'' for the word ''normal.''

She also had no interest in romanticizing or aggrandizing what it was that she did in her work. She used to laugh it off when I would call her ''the distaff Ernest Hemingway of Great Britain.'' I was in London those four months ago at her urging, because I had just written the first three chapters of a novel that I had only started and only because she had urged me to write it, and which I have only recently completed with her encouragement and through her help. She then started talking to me about us contacting literary agents in London that she knew and it occurred to me ask her when she was going to write her own book about her very interesting, exciting and inspiring life. I knew that the possibility of such a book would be why agents would have wanted to court her. She only laughed and suggested that maybe I should write her book. She was only interested in reporting, not in making herself the story. She was in her life and in her death utterly heroic, but she would have been the last person to think that or to want to even talk about it.

Marie also had that same good natured disinterest when it came to politics, or to her more difficult role as a woman in her profession, or to moving about in a part of the world that was not particularly easy for a woman. For the almost forty years that I knew her, she only ever addressed politics obliquely. I always assumed she was a liberal. But it was more than that and it was much different. She was, through her work and her life, a liberalizing force within the world. She hoped to speak to a better part within us all that she felt simply must empathize with the least fortunate, the terrorized, the forgotten and the innocents who are under attack. And when she called me on her satellite phone one night this past December, it was only in passing that she mentioned how she had been chased through Tahrir Square on the same night that many women had been assaulted there. And even then she only spoke of her gratitude to the Egyptians who had saved her and not of the special dangers to her as a woman.

She used to always apologize for often being out of touch, for answering with one phone call three or four weeks of daily emails, for disappearing for weeks or months on end. I have no doubt that for many of us who were even her closest friends that her columns in the Sunday Times were perhaps the most reliable way for us to hear her voice and know what was on her mind. It was almost as if she was expressing her worry that her relationships were like her politics or what she might say about her work or what it meant to her to be a woman war correspondent. They came after her need to tell the story. My best insight into this came the day after I had asked my stupid question, on October 19, 2011, the day it was reported that Muammar Gadaffi had been killed.

I watched her at her home in that morning as she accomplished what would have taken anyone else several days. She juggled several phones, gave an interview to National Public Radio, made calls in English and French to

make arrangements for two separate clandestine border crossings, made flight arrangements, coordinated with other reporters, communicated with her office, dug up leads, tracked down reports. And that was all the while she was packing and gathering up several different phones and communications uplinks, taking deliveries at the front door, and pulling out her helmet, her flak jacket and all her other protective gear, which was all marked, ''Marie Colvin, O +,'' for her blood type. She laughed about that too, and all the time she was apologizing for cutting our visit short. She was generous to a fault and she showed her idiosyncratic disinterest when it came to compliments. And when I pitched in and helped her prepare to leave in what limited ways I could, she was surprised by it and slightly embarrassed.

But what I noticed that morning has stuck with me now that she is gone. There can be no doubt of the magnitude of the loss that is encompassed by her death, personally to her family and friends, professionally in the realm of journalism, and even to the world in what has been lost in the reporting of stories that are the most harrowing and dangerous to reporters and perhaps the most important for the rest of us to know. When I read what has been written and what I write about her passing, and even when I read what has been reported about what Marie herself had said about the importance of reporting these stories, I realize that all of it is true but that all of it is necessarily a reduction of what she actually was. That morning she was incredibly alive with a passion to get to the story and to tell it. And she was filled with what can only be called joy. In all the moods and stages of her life in which I had witnessed her, at that moment of going to cover the story she was the most of who she really was, and she was at one with it.

She was a tirelessly brave and compassionate female war correspondent, true. But to me she really was what few people ever get the opportunity to be and what almost none of us have the will to be. She was a free artist of herself and of her life. Her commanding if almost sole interest was in being our eyes and ears in places where most people would be afraid to look or to go. I think the joy I saw in her was that she knew how rare such a life can be, and that she was fortunate to be living it. That is the small personal consolation that I draw from her death. It would be tremendous if something positive would come out of it in terms of expediting the end of the massacre in Syria, but I believe that is something even she would not have expected and would have been something for which she had only hoped. The possible larger consolation would be to the way in which her death might speak, in the same way that her life and her reporting had, to that part of us that should care for the world's innocent and obscure victims. And I also hope that it might speak to some others who might be inspired to go in her wake and report those same kinds of stories to the world, and do so regardless of the personal risk and do it heroically, as did my friend, Marie Colvin.

FOR MARIE COLVIN

(By Katrina Heron)

I've spent my adult life refusing to envision an obituary for Marie. I planned with all my conscious powers never to read one, and I promised myself that I would never have to write one. Along with her family and her great caravan of other friends, I celebrated Marie's determination to put herself in harm's way, to ''bear witness'' as a foreign correspondent in so many parts of the world—Lebanon, Libya, Israel, the Palestinian refugee camps in the West Bank, Chechnya, Sri Lanka, East Timor, Iraq—and waited each time she went out on assignment, fretting, for her to signal the all-clear. ''Will call when I'm outta here,'' she would write as she filed her last story from the danger zone.

From our mid-20s until yesterday, that fragile insistence of mine mostly held. There were terrifying moments, and Marie was gravely wounded in 2001; caught in a firefight in Sri Lanka, she lost sight in one eye and nearly died from shrapnel wounds. But she survived, and when she arrived back in New York, we went together to interview ophthalmological surgeons (waving away, regretfully, the very handsome young doctor who eagerly auditioned with his grasp of geopolitics), shopped for eye patches and drank quite a lot of Champagne. I didn't stop worrying after that, but my hope swelled to a greater confidence. Marie took the greatest possible precautions in conflict areas, so far from rash or merely impulsive that other journalists often looked to her for guidance on the risk calculus of a given situation. She focused on bringing back the story and didn't dwell personally on the dire circumstances in which she found herself except insofar as they served her formidable powers of description and, often, hilarity.

I look back over the last year or so of scattered emails, sitting there innocently in the queue. She wrote last June: ''I am STILL in Misrata, Libya, and the ever brutal Gadaffi is ruining any chance of a social life or indeed a life by selfishly refusing to Go. Despite all the graffiti on walls here giving excellent advice, ''Just Go!''

I had one of my best offers ever today. A rebel fighter on the front ambled over, on his break from firing, so to speak, and said, ''Hey, do you want to shoot the mortar?'' It is definitely a sign that I may have been here too long because I REALLY WANTED TO SHOOT THE MORTAR. I mean, when will I ever get a chance to shoot a mortar again?''

A couple of days later: ''I am sitting in the gloaming on the stern of a Turkish boat in Misurata harbor, looking out over an ugly seascape of cranes and broken concrete and blasted buildings from months of bombing. I am finally homeward bound, a day's journey to Benghazi, a few days in the rebel capital for a story then an overnight drive to Cairo. It gives one respect for travel, having to run the spectrum of transport. It will be strange coming out of this world that, however mad, has a simplicity to it of sand and courage and bombs and sleep and canned tuna and a few shirts, washed out in a bowl when the dust threatens to take over.''

A bit farther on, there's an invitation to connect with her on LinkedIn, which prompted some hazing about whether she was trying to beat the rap on her famously abysmal grasp of basic networking technology (she used a satellite phone but was flummoxed by her iPhone). In truth, she was a technical wizard of a different sort, a skilled sailor who had done a lot of deep-water racing and had recently, proudly, earned her yachtmaster qualification. She grew up sailing in Long Island Sound, and the loss of vision had slowed her down not a bit.

There's a quick back and forth toward fall on a subject we talked about often by phone and during our last couple of visits—me going to London, where she lived, or her coming to California, where I am. She kept saying she wanted to spend less time in the Middle East and more time at home—and on the ocean. She had briefly tried a desk job at her paper, the Times of London, but of course it drove her nuts. Still, the job was getting more perilous. Tim Hetherington, the photojournalist killed in Misrata in April 2011, had been very generously helping me on a book I was editing about Liberia, where he'd spent a good deal of time. Marie knew about the project and had written me: ''Weirdly, I went by the place today where Tim and [photographer] Chris Hondros were killed. A shiver of mortality. The forecourt of the car repair shop still bears the mark of the mortar shell that killed them, and a starburst of chips in the concrete where the metal flew out as shrapnel.''

Around Thanksgiving, the messages trail off for a bit, as they often did. But even when I didn't know exactly where she was, I didn't worry desperately. I was used to periods of silence, plus there was a group of us that always passed around bits of her itinerary. Sightings by other journalists would filter back or someone would see her on CNN or hear her on NPR. She knew she could call day or night, and I could always reach at least her voice—I was thinking tonight that her cell is probably still on, with its years-old, soft and slightly lilting greeting. But I couldn't bear to hear it now so I won't try. Christmas Day she there in my inbox, brief but joyful.

A couple of weeks ago, Marie wrote that she was going to Syria. I think her colleagues were uneasy, and I know now that several of our friends tried to talk her out of it. I felt fairly calm, which just goes to show you how great is the power of willful optimism. In the last email I have from her, she wrote: ''I am now in Beirut, negotiating with smugglers to get me across the border. After six weeks in Libya this year, under shelling and that low level of anxiety every day brings, I had said I'll do a bit less of the hot spots, but what is happening in Syria, especially Homs, is criminal, so I am once again, knapsack on back with my satellite phone and computer, clambering across a dark border.''

I was fast asleep in my bed in Berkeley yesterday when Marie was killed in Homs. I woke up to what the world was learning—that the house she and several others were camping out in had been hit by rockets; that with Marie in the lead, the group had just run down the stairs to the front door when a blast obliterated the entryway; that a 28-year-old French photographer, Remi Ochlik, also died, and three others were wounded. Right now, all of us are panicked about the condition of the injured journalists, not knowing whether rescue workers will be allowed in to Homs to get them. It brings me back to those frantic, terrible hours in 2001 when all we knew was that Marie was wounded in Sri Lanka and had yet to be evacuated.

I have been walking around all day talking to her, asking her dumbly where she is. Ever since we first met and became roommates in college, we've been inseparable in one way or another. In that same last email she said we should charter a boat this summer—sail merrily to the ends of the earth: ''More when I am back from Syria. I love you very much.''

The phones and email and all the rest have been humming with misery, and with Marie's love. So many wonderful people adored her and she them that I've been swathed in stunned, overflowing warmth all day. At the same time, it's impossible to believe she's dead, but then I'm scared of the moment when it will be impossible not to.

Further tributes to Marie Colvin can be found at http://whitehouse.senate.gov/.

Mr. WHITEHOUSE. On behalf of a group of old friends who are stricken by her loss, I offer this in affection, in appreciation, and in memorandum.

Marie's mother, Rosemarie Colvin, said of Marie:

Her legacy is: be passionate and be involved in what you believe in. And do it as

thoroughly and honestly and fearlessly as you can.

Indeed.

With those words, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Madam President, I did not know Marie personally, as my friend and colleague from Rhode Island did. But his words, his passion, his emotion allow us all to know her a little bit better.

Even just reading the newspaper accounts, she was a remarkable person. But hearing from SHELDON, both here and speaking to him privately, it is obvious that those who knew Marie were privileged and were touched by her life long before her untimely death. She leaves an amazing mark.

I just wish to say to my colleague SHELDON, there are times that measure the mettle of a person and one of them is when they go through grief and tragedy. My respect for him, as high as it was before, is higher still knowing what he is going through and how he has worked to handle this difficult situation.

I rise simply as a New York Senator who represents the area, Long Island, where Marie Catherine Colvin came from. We are working—SHELDON above all—desperately, to bring her home to her mother Rosemarie, so her family can provide her with a final resting place, providing her with the dignity she deserves.

Marie had a remarkable career. It is no doubt that not only, as SHELDON said, the small band of journalists but many larger than that and anyone she knew will mourn her death for years to come because we have not just lost a daring journalist, but we also have lost a humanitarian, one who took her abilities as an investigator and a storyteller to speak for the voiceless. It is clear from SHELDON's remarks and from reading the biographical accounts and her obituary that this was a woman of both courage and passion who managed to sort of weave the two into an amazing life where she served so many.

Marie grew up on Long Island, attended Oyster Bay High School, and of course, as we know from what SHELDON has said, went on to study at Yale. She studied anthropology. She moved to New York City, worked as a UPI police reporter on the midnight to 6 a.m. shift. That is the time when most crimes occur. That is the times in the dark, particularly in those days in New York City, to be a journalist was difficult. It took courage. But even then, Colvin didn't shy away from tough jobs.

She worked her way up, moving to Paris and later to work for the UK's Sunday Times and became their Middle East correspondent in 1968. She has been doing this kind of dangerous and important work that inevitably and inexorably saved lives for so many years, 27 years. Colvin focused on years when the Middle East was not calm. It hasn't been the warmest climate for women and certainly was not an area for the weak of heart. But she didn't just stay for a year or two. She stayed at the front, and after each conflict ended, she went to the next one because I think she knew—and, again, SHELDON would know this much better than I. But just reading about her, she knew her talents were unique; that there wasn't anybody else who might fill those gaps and be able to do the kind of reporting that might bring change. So she followed the conflicts in Chechnya and the Balkans, East Timor, Sierra Leone, Zimbabwe. She was not just in the Middle East. She was there.

For those who cannot instantly remember some of her coverage, I am sure they remember her eye patch. This is from her work in Sri Lanka, where she defied a government ban on journalists' access, traveled over 30 miles through the Vanni jungles to report on the terrible war crimes of the Sri Lankan civil war. I remember reading them at the time and being moved to try and do something.

Colvin suffered. She never threw in the towel. If anything, it pushed her to work even harder. Her quests to help the women and children from every single war-torn country she entered endeared her to those women, those communities, those members of our global community who knew and know that her type of bravery was so rare indeed.

This brutal regime has broken families, torn apart homes, and forever changed the way of life for the Syrian people. There is darkness that has descended over Syria by design, by this awful regime. There was Colvin, shining a candle, letting the world know, and now we are all deprived of an incredible journalist.

With her, we lose an international role model. We lose the story she would tell, the light she would bring to the darkest lives, most recently in Syria but throughout the world, and we lose the voice she would have found wherever the next merciless regime tried to suppress it. Yes, Marie Colvin would have been there.

While there is currently no official U.S. diplomatic presence in Syria due to the awful human rights tragedy being carried out by the Assad regime, we are working as best we can to explore every avenue to help SHELDON and her family bring closure and to help her mother, in particular, who made clear that she will not rest until her daughter returns home.

On behalf of all my colleagues, I offer my condolences to Rosemarie Colvin in East Norwich, Marie's mother, and to the many people who will miss the work of one of the greatest correspondents of this generation.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN of OHIO. Madam President, I ask unanimous consent to speak for up to 20 minutes and to yield at the conclusion of my first 10 minutes to Senator PORTMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGH SCHOOL TRAGEDY

Mr. BROWN of Ohio. Madam President, I join my fellow colleague from Ohio Senator PORTMAN to offer our condolences and prayers to the people of Chardon, OH, who experienced a terrible tragedy earlier this week.

On Monday morning, February 27, a troubled young boy opened fire in the crowded cafeteria at Chardon High School. Three students were killed. Two students were wounded. The entire community remains shaken.

As fathers, we cannot imagine the loss of a child and the loss of innocence of children who will now grow up knowing tragedy all too early in life. As Members of the Senate, we couldn't be more proud of the resiliency and the love and the compassion the people of Chardon have shown in the wake of such fear and sorrow.

During the shooting, teachers and school administrators risked their lives to protect and save the lives of their students. Assistant Football Coach Frank Hall chased the gunman out of the cafeteria, Principal Andy Fetchik called 911, and countless other teachers and students provided safety and comfort until help could arrive.

Chardon law enforcement and first responders—from the 911 dispatchers to the police, to the emergency medical people—arrived at the scene to apprehend the suspect and restore calm and order.

Chardon Police Chief Tim McKenna and his team—especially the three officers who rushed to the school—did an outstanding job. Hospital staff at MetroHealth and Hillcrest cared for the victims and counseled the families of lost ones. Out of this week's turmoil and tragedy, we remain proud of the community that has come together through vigils and prayer services, through support and red ribbons worn.

The day after the shooting, more than 1,000 people crammed into the St. Mary's parish across from Chardon High School. The overflow crowd of another 1,000 was outside listening to Principal Fetchik express how proud he was of the students.

Yesterday, President Obama spoke to Principal Fetchik to say how proud he was—as Senator PORTMAN and I are—of the school and of the community.

At the prayer service, Superintendent Joseph Bergant explained why the school would close for a few days this week to reflect, for students and families to get the help they need, for parents to hug their children, and for children to hug their parents.

Yesterday, I spoke with Superintendent Bergant to express Connie's and my gratitude and prayers. The investigation into how and why this happened continues, but resilience, compassion, and love, we know, will remain.

Tomorrow classes resume in Chardon and at Lake Academy and Auburn Career Center, where students and staff are also dealing with this tragedy. Tomorrow, Chardon High School students will march together from the town square to the school in a show of solidarity and unity. They will remember Joy Rickers and Nicoloas Wajczak, who are still recovering from their injuries. They will honor those fellow students no longer with them. Daniel Parmertor was a 16-year-old high school junior. Known as Danny, he was a student who loved snowboarding and video games and computers. He enjoyed wing nights at Cleats with friends and was excited about starting his first job in a bowling alley and picking up his first paycheck.

His father Bob, a boiler technician with First Energy, and his mother Dina, a nurse at Hillcrest Hospital, were finishing their night shifts. If we can imagine, they were finishing their night shifts when they learned of the shooting.

In their statement, the family said:

Danny was a bright young boy, who had a bright future ahead of him. The family is torn by this loss.

He is survived by his parents, siblings, grandparents, a great-grandmother, and numbers of aunts, uncles, and cousins.

Russell King, Jr., was 17 years old. His friends described him as sociable and who got along with everyone. A junior, he was enrolled in Chardon High School and the Auburn Career Center. He was studying alternative energy such as solar and wind power as so many young people are today.

Demetrius Hewlin was 16 years old, affectionately known as ''D'' to his family and friends. Demetrius was interested in healthy living, staying active, playing computer games, and reading books.

In their statement, his family said:

We are saddened by the loss of our son and others in our Chardon community.

Demetrius was a happy young man who loved life and his family and friends.

We will very much miss him, but we are proud he will be able to help others through organ donation.

Imagine that, the parents and the family thinking of others so immediately.

He is survived by his parents, grandparents, a brother and sister, and numerous aunts, uncles, and cousins.

On behalf of all Ohioans, the Senate, and joining with Senator PORTMAN, we offer our continued prayers and condolences to the Chardon community.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Madam President, I rise with my colleague Senator BROWN, who has just spoken about this terrible tragedy that occurred in our State on Monday at Chardon High School in Geauga County. I was calling into a radio program in the Cleveland area on Monday morning when the first reports started to come in. Frankly, it was unbelievable that there could be a shooting anywhere but certainly in a high school and in this community that I visited that Senator BROWN and I both know. Unfortunately, the rumors ended up being true and the tragedy is—as Senator BROWN has just described so well—that lives were cut short and these were lives full of promise. We will never know those young people Senator BROWN was just talking about as adults, but we will always remember them, and now they are memorialized in the CONGRESSIONAL RECORD.

My wife Jane and I have been keeping the families in our prayers, and for that matter the entire Chardon High School community. We continue to pray for the healing of those who were injured in flesh and in spirit through this terrible act. As the parent of a high school student who is about the same age as these young people, I cannot imagine what the parents have gone through over the last 4 days. Chardon is a beautiful community. It is almost a New England-style town on the Western Reserve, with a beautiful town square. It is a place of certainty, and that certainty, of course, now has been shattered. It touches so many people around Ohio.

One of my staff has two cousins who attend the school, and along with two other cousins who have already graduated from the school, fortunately, their family members are all OK. But it shows that despite being a big State, all of us in Ohio are tied together.

We have been in touch with the Chardon officials offering to help where it is appropriate. I know Senator BROWN has made a call, as has the Governor, and the President has made a call. We all want to be there and help in any way we can. We can draw some hope from the heroism of the day.

Unbelievably, the assistant football coach and teacher, Frank Hall, chased the shooter with his gun and showed a lot of bravery. A math teacher, Joe Ricci, rescued one of the injured students. We draw hope from the rank and leadership of Principal Andy Fetchik, Chardon schools Superintendent Joe Bergant, Geauga County Sheriff Dan McClelland, Chardon Police Chief Tim McKenna, and the first responders who responded as they always do, and we appreciate and commend them for their reactions and their ability to deal with a very difficult situation.

The community has received a lot of support and will need it as they come together to grieve and to heal. The reports I have heard about, the vigils and gatherings over the last week have been moving. I am told as students returned to school for the first time today, they gathered in that town square I talked about and walked together in unison.

We need to make sure we continue to pull together and continue to support the community and school. For the parents to heal is a journey, and the journey has just begun.

I have been moved by the expressions of support from other local high school students too. Apparently, other students of the Cleveland area have gone Hilltopper red and black, which is the mascot, to show their support for other students. We are in the Chamber with some of our pages who are about the same age as these students and that show of support and love is appreciated and it shows the character of our State. We pull together in Ohio. We pull together in times of tragedy, through tears and through pain. We will get through this.

Again, I appreciate the opportunity to speak with my colleague about the tragedy and to be sure that in the RECORD we are memorializing this event and ensuring that those students whose lives have been cut short will all be remembered.

God bless Chardon and the Chardon community.

I yield back the balance of my time.

I yield the floor and note the absence of a quorum.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COONS). Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY

Mr. CHAMBLISS. Mr. President, I rise today to speak about our Nation's energy policy.

Georgians, as well as folks all across America, are shocked every time they pull up to the gas pumps, both at the price of gas per gallon and at the jaw-dropping total cost each time they fill up their tanks. With rising food prices and a weak economic recovery, skyrocketing gas prices could not come at a worse time. This situation illustrates why it is imperative for Congress to focus on creating a policy to expand and diversify our energy sources so the American people are no longer held hostage by prices at the pump.

The necessity of congressional action has become all too clear as gas prices continue to rise and unrest in the Middle East threatens the global economy. We cannot afford to keep sending hundreds of billions of dollars per year to foreign countries, many of which are not America's friends, to meet our energy needs. Doing so poses a threat to our national security and further harms our Nation's struggling economy.

Unfortunately, the President and his administration have made some decisions that contribute to rising gas prices and that prevent us from being able to take advantage of vast energy

resources located right here in North America.

First, the President's recent decision to reject the Keystone XL Pipeline was extremely disappointing. Canada is a trusted ally and friend to the United States, and by tapping into its vast oil reserves, we could have substantially lessened our need to import oil from other, potentially hostile, nations. Not only would this project instantly have created many jobs, it would also have helped secure our Nation's energy future.

In addition, the long line of burdensome regulations coming from the administration threatens both economic growth and energy costs in the United States. Instead of navigating through this unprecedented regulatory environment, more and more industries will choose to take their business overseas. This could potentially include refiners and other businesses essential to domestic energy production. In fact, we are already seeing the movement of the deep oil rigs in the Gulf of Mexico to China—a classic example of what could happen even more so in the future.

Rather than hindering domestic production of oil and gas, we must encourage the development of the abundant energy resources we have right here in the United States, and we must do so in an environmentally responsible manner. I will continue to support domestic oil and gas exploration and production. It is an essential component of a comprehensive energy policy that will enable America to become more energy independent.

As I hear more reports of new oil and natural gas deposits found within our borders and off America's shores, I am stunned that we are not doing more to encourage the development of these resources. I can't think of a better means of improving our economy, by both reducing America's energy imports and encouraging job growth. Unfortunately, the administration continues to hold up and unnecessarily delay the approval of drilling leases and permits. Now is not the time to tie up valuable and much needed American energy production in bureaucratic redtape.

A responsible energy policy that includes increased domestic energy production; improved energy efficiency through technology; improved conservation; and a diversified energy supply with the use of renewable fuel sources will keep gas prices low, lessen our dependence on foreign oil, and strengthen our economy. I am hopeful we will take action on some form of comprehensive energy legislation during this Congress. For the sake of our national security and our economy, we need to tackle this issue now instead of procrastinating and letting others handle it.

I made this same speech 4 years ago when we saw gas prices approach $4 a gallon. Here we are 4 years later with the same hurdles standing in front of us with respect to the lack of a long-term energy policy in this country. So I hope that in a bipartisan way we can develop an energy policy, even if it is short term and even if it is narrowly focused, that will provide relief to Americans with respect to the rising gas prices, which are going to impact every single product that is made in America today.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. I thank the Chair.

(The remarks of Senator CHAMBLISS pertaining to the introduction of S. 2151 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. CHAMBLISS. Mr. President, I yield the floor and ask that I be followed by Senator BROWN of Ohio, who assured me he would be waiting in the Chamber when I concluded.

But since I see he is not here, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRANKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRANKEN. Mr. President, I come to the floor today to talk about my amendment to the transportation reauthorization bill that I have introduced with Senator BLUNT. I am grateful this amendment has been included in the base bill of Leader REID's substitute amendment.

I will take a couple of minutes to explain this amendment. It is a simple commonsense amendment. I am glad it has been accepted. It is also particularly significant to my home State of Minnesota.

On August 1 of this year, we will mark the fifth anniversary of the tragedy in my home State of the collapse of the Interstate 35W bridge in Minneapolis. The collapse killed 13 people and injured 145. That tragedy should have been a wake-up call in America and in this body. Bridges should not collapse in the United States of America.

Unfortunately, the state of many of our bridges today is still extremely concerning. According to the most recent data compiled by the Federal Highway Administration, one in nine highway bridges in this country is classified as ''structurally deficient.''

Let me say it another way. One of nine bridges in our country needs significant rehabilitation or replacement and requires yearly inspection.

In Minnesota alone, more than 1,100 bridges were listed as being structurally deficient. The bill we are debating today consolidates many varied surface transportation programs into five main pots of money. The Highway Bridge Program would be consolidated in the new National Highway Performance Program, and of this new program, 60 percent would have to be spent on restoring National Highway System roads and bridges into a state of good repair. The other 40 percent is more flexible and can be spent on a variety of projects, including Federal-aid highways that are not on the National Highway System, or the NHS.

However, if those non-NHS roads have a bridge that needs repair, that project would not have been an allowable use of this flexible pot of money. My amendment, which is now included in the base bill, fixes that. It allows the 40-percent pot of money to be used to repair bridges on non-NHS Federal-aid highways.

It is common sense. If roads are eligible for this funding, then bridges along these roads should be eligible as well. This is a no-brainer to me, especially given the poor state of our bridges today. The I–35W bridge collapse was a tragedy. It was a monumental failure of policy. I am determined not to let that happen again.

I thank Senator BLUNT for joining me in this effort. I also wish to thank Transportation for America and Smart Growth America for their support on this important fix.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FRANKEN). Without objection, it is so ordered.

Mr. BROWN of Ohio. Mr. President, I would like to talk about an important part of the transportation jobs bill the Senate is debating this week. The bill is about creating jobs by modernizing our roadways and highways, about making our bridges safer—we know what that means in Minnesota, the State of the Presiding Officer—and about improving public transportation and reducing congestion across the country. But it is also about improving the public safety of the vehicles that travel our country.

We know about the success we have had as a nation because of the partnership between the auto industry and the government and adopting safety rules and working with the industry and making our travel safer. We know about the very impressive increase in safety on our Nation's highways. And there is still work to be done.

Five years ago tomorrow, a fatal motorcoach accident rocked a small Ohio community and brought national attention to the need for commonsense safety measures that could save lives.

Bluffton University is a small university in Bluffton, OH, near Interstate 75 in Allen and Hancock Counties in the northwest part of the State. The school's baseball team was on their way to Florida for spring training when their bus lost control on a poorly marked exit ramp outside Atlanta. The bus toppled from the overpass. Like the

majority of fatal motorcoach accidents, when the bus rolled over, the passengers were ejected from their seats and thrown through the bus windows. Seven people were killed and dozens were injured.

John and Joy Betts of Bryan, OH—a couple who have become friends of mine—lost their son David, one of the students who died that day. He was a baseball player and student at Bluffton. I have gotten to know the Betts family since the accident. They have been courageous advocates in raising awareness of motorcoach safety and demanding congressional action. To the family's credit, they used the loss of their son to save the sons and daughters of many others who will not face those tragedies because of the work the Betts family is doing on behalf of this motorcoach safety legislation.

The National Transportation Safety Board's final report from the Bluffton motorcoach accident—released almost 4 years ago—echoed recommendations the NTSB has been urging for years. For nearly 5 years, I have been working with Senator HUTCHISON, whose State has seen its share of tragic motorcoach accidents, to put those recommendations into law. In a bipartisan manner, we are fighting to make motorcoaches safer for the millions of passengers who ride them every day.

Today, because of the Betts family, other courageous families, and activists, we are taking a step in the right direction if we pass the bill.

In the 110th, 111th, and now the 112th Congress, Senator HUTCHISON and I have introduced the bipartisan Motorcoach Enhanced Safety Act, which includes many of the NTSB's ''most wanted'' safety improvements. Specifically, the bill would address many of the major safety shortfalls from the Bluffton accident, which have plagued tour bus operations for too long. It would mean better protection systems for occupants and stronger passenger safety standards. It would improve safety equipment and devices and the need for onboard recorders with the capability to collect crash data. These safety measures are neither exotic nor complicated; they are commonsense safety features that have been and in many cases are widely used. But since they are not required by law, they have not been installed in most American motorcoaches. Instead of saving lives, the public safety remains at risk.

Some who oppose improved tour bus safety standards will tell you that this isn't a motorcoach problem, that they have a problem with rogue bus companies or bad drivers. Certainly, that is part of the problem, but we cannot simply look the other way and reject the idea that improving the safety of motorcoach manufacturing and motorcoaches is unnecessary or fiscally imprudent.

John Betts said:

It is necessary through our current regulations to get bad operators off the road. However, it is not sufficient as it does nothing to ensure safety once the crash has occurred.

I couldn't agree more. We can get bad operators off the road, but that is not enough to ensure passenger safety in the tragic event of an accident. If the technology to save lives and reduce injury in motorcoach accidents exists, we must put that technology to use. This bill does that.

Last year in Cleveland I was joined by John's sister and brother-in-law, Pam and Tom Bryan of Vermillion, OH. We met with a Greyhound bus driver who showcased new Greyhound buses equipped with some commonsense safety measures that clearly will save lives and protect both passengers and motorists on the road.

The Betts family and operators like Greyhound understand the urgent need and have too often relived the painful reminders that safety improvements for tour bus operations are long overdue. That is why this Motorcoach Enhanced Safety Act is important, and it is why Greyhound's endorsement of this bill is so critical to turning public sadness and outrage into public action. Bus operators such as Greyhound think we can do this, and manufacturers do too. The technology is there.

The bill is common sense, bipartisan, and it will save lives. How many more motorcoach deaths—in Ohio, Texas, and most recently in New York and New Jersey—do we have to witness before bus companies start doing the right thing? As a father and Senator, it is disturbing to know that students are still traveling in motorcoaches without even the option of buckling up. Our laws should ensure that our vehicles and roads are safer, not less safe, for students, families, and elderly people, who often take motorcoach charters to events and concerts and such.

Tomorrow is the fifth anniversary of the Bluffton University tragic motorcoach accident. Our legislation is in the underlying Transportation bill we are debating on the floor. I urge its passage. I urge continued inclusion of these provisions, as Senator HUTCHISON and I have asked. It is commonsense, middle-of-the road, bipartisan legislation that will save lives, undoubtedly.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska is recognized.

Ms. MURKOWSKI. I thank the Chair.

(The remarks of Ms. MURKOWSKI pertaining to the introduction of S. 2151 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

Mr. REID. Mr. President, for everyone's information, it is not as if we have been sitting around doing nothing. We have been trying to work something out on this highway bill. Hopefully, in the next little bit we can do it. We have not been very successful this day. I am glad we had that vote to try to move forward, but there are still some obstacles in the way.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SHERIFF'S DEPUTY JAMES I. THACKER

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a man who dedicated many great years of service to the residents of Pike County, KY, Sheriff's Deputy James I. Thacker of Elkhorn City, KY.

Sadly, Deputy Thacker was recently killed in a tragic automobile accident in the line of duty on Monday, January 23, on U.S. Highway 460 near Marrowbone, KY. He was 53 years old. I would like to take a moment to share with my colleagues the legacy that was left behind by this great man and humble public servant.

When asked to comment on the untimely death of Deputy Thacker, Pike County Sheriff Charles ''Fuzzy'' Keesee said, ''He was kind and compassionate; he treated everyone else like he wanted to be treated. He was that kind of person, just an excellent officer.'' Deputy Thacker was genuinely devoted to the people of Pike County, whom he had dedicated his life to serve. James has been described as the type of man you could call on day or night, with anything you may need, no matter how big or how small.

Deputy Thacker held an array of jobs in Pike County throughout his life. He served his country as a Marine early on in his life. Later on he became a Pike County road foreman. Next, he spent 8 years as Pike County's constable before assuming the role of Deputy Sheriff a little over a year ago.

Deputy Thacker most assuredly left an incredible legacy in each of the positions he held in his lifetime. He was cherished and appreciated by the citizens of Pike County, and this was proven when hundreds of friends, colleagues and family members attended his visitation to pay their respects. Among

those assembled, people felt that anyone who knew James was truly blessed, and could find joy in simply being in his company. ''He was very likeable and he was the type of person that once you knew him, it seemed like you knew him forever,'' said Sheriff Keesee.

Mr. President, at this time I would like to ask my U.S. Senate colleagues to join me in commemorating this fallen law-enforcement officer, and recognizing the legacy that he has left behind by making Elkhorn City, Pike County, and the Commonwealth of Kentucky a great place.

A news story on the tragic death of Sheriff's Deputy James I. Thacker recently aired on WYMT TV News of Hazard, Kentucky, and was published on WKYT.com. I ask unanimous consent that said story be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From WKYT.com, January 24, 2012]

SHERIFF REMEMBERS FALLEN DEPUTY

(By Angela Sparkman)

Pike County Sheriff's Deputy James I. Thacker died while on duty after a car crash Monday night near Marrowbone on U.S. 460.

Sheriff Fuzzy Keesee says Thacker was serving papers on his way home to Elkhorn City when the wreck happened.

State police spent most of Tuesday investigating the three-vehicle crash and say an SUV crossed the center line and hit Thacker's cruiser. Another vehicle also hit the cars after the collision.

The sheriff says Thacker will always be remembered for his service to Pike County.

''He was kind and compassionate, he treated everyone else like he wanted to be treated. He was that kind of person, just an excellent officer,'' Sheriff Keesee said.

Keesee says Thacker joined the department just last year but served as a constable for four years before becoming a sheriff's deputy.

A Pike County Sheriff's cruiser now sits in front of the courthouse, draped in black and a wreath on top in memory of 53-year-old James I. Thacker.

Sheriff Charles ''Fuzzy'' Keesee says Thacker always answered the call of duty to help people. Monday night, the call for help was for Thacker.

The Sheriff says Thacker was serving papers on his way home to Elkhorn City. He never made it.

The dozens of police who answered the call to help Thacker could not save him. He died at the scene. It was a scene the sheriff will never forget.

''His family was there. I talked to them, had a prayer with them. We were all saddened,'' said Sheriff Keesee.

State police are still investigating what caused the SUV to allegedly lose control and cause the crash. Troopers are reconstructing the wreck on U.S. 460.

Meanwhile, the Sheriff's department is coming together to remember their friend and fallen officer.

''It's going to be a great loss to the community around us,'' said Sheriff Keesee.

The visitation for Thacker starts Wednesday night at the Community Funeral Home in Coon Creek. His funeral is Friday at 1 p.m. at East Ridge High School.

HONORING OUR ARMED FORCES

CALIFORNIA CASUALTIES

Mrs. BOXER. Mr. President, I wish today to pay tribute to 15 servicemembers from California or based in California who have died while serving our country in Operation Enduring Freedom since November 15, 2011. This brings to 324 the number of servicemembers either from California or based in California who have been killed while serving our country in Afghanistan. This represents 17 percent of all U.S. deaths in Afghanistan.

SPC Sean M. Walsh, 21, of San Jose, CA, died November 16, in Khowst Province, Afghanistan, of injuries sustained after encountering indirect fire. Specialist Walsh was assigned to the 185th Military Police Battalion, 49th Military Police Brigade, Pittsburg, CA.

LCpl Joshua D. Corral, 19, of Danville, CA, died November 18 while conducting combat operations in Helmand Province, Afghanistan. Lance Corporal Corral was assigned to 3rd Battalion, 7th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, CA.

Cpl Zachary C. Reiff, 22, of Preston, IA, died November 21 of wounds suffered November 18 while conducting combat operations in Helmand Province, Afghanistan. Corporal Reiff was assigned to 3rd Battalion, 7th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, CA.

SSgt Vincent J. Bell, 28, of Detroit, MI, died November 30 while conducting combat operations in Helmand Province, Afghanistan. Staff Sergeant Bell was assigned to 2nd Battalion, 11th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, CA.

SFC Clark A. Corley Jr., 35, of Oxnard, CA, died December 3, in Wardak Province, Afghanistan, of wounds suffered when enemy forces attacked his unit with an improvised explosive device. Sergeant First Class Corley was assigned to the 2nd Battalion, 5th Infantry Regiment, 3rd Brigade Combat Team, Fort Bliss, TX.

SPC Thomas J. Mayberry, 21, of Springville, CA, died December 3, in Wardak Province, Afghanistan, of wounds suffered when enemy forces attacked his unit with an improvised explosive device. Specialist Mayberry was assigned to the 2nd Battalion, 5th Infantry Regiment, 3rd Brigade Combat Team, Fort Bliss, TX.

SGT Christopher L. Muniz, 24, of New Cuyama, CA, died December 11, in Kunar Province, Afghanistan, of wounds suffered when enemy forces attacked his unit with an improvised explosive device. Sergeant Muniz was assigned to the 3rd Brigade Special Troops Battalion, 3rd Brigade Combat Team, 25th Infantry Division, Schofield Barracks, HI.

SSG Noah M. Korte, 29, of Lake Elsinore, CA, died December 27, in Paktia, Afghanistan, of wounds suffered when enemy forces attacked his unit with an improvised explosive device. Staff Sergeant Korte was assigned to the 720th Military Police Battalion, 89th Military Police Brigade, Fort Hood, TX.

PO1 Chad R. Regelin, 24, of Cottonwood, CA, died January 2 while conducting combat operations in Helmand Province, Afghanistan. Petty Officer First Class Regelin was assigned as an explosive ordnance disposal technician to Marine Special Operations Company Bravo. Regelin was stationed at Explosive Ordnance Disposal Mobile Unit 3, San Diego, CA.

Cpl Jon-Luke Bateman, 22, of Tulsa, OK, died January 15 while conducting combat operations in Helmand Province, Afghanistan. Corporal Bateman was assigned to 2nd Battalion, 4th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, CA.

Cpl Christopher G. Singer, 23, of Temecula, CA, died January 21 while conducting combat operations in Helmand Province, Afghanistan. Corporal Singer was assigned to 3rd Combat Engineer Battalion, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, CA.

Sgt William C. Stacey, 23, of Redding, CA, died January 31 while conducting combat operations in Helmand Province, Afghanistan. Sergeant Stacey was assigned to the 2nd Battalion, 4th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, Camp Pendleton, CA.

PFC Cesar Cortez, 24, of Oceanside, CA, died February 11, in the Kingdom of Bahrain. Private First Class Cortez was assigned to 5th Battalion, 52nd Air Defense Artillery Regiment, 11th Air Defense Artillery Brigade, 32nd Army Air and Missile Defense Command, Fort Bliss, TX.

PO3 Kyler L. Estrada, 21, of Maricopa, AZ, died February 14 as a result of a noncombat related training incident in Djibouti. Petty Officer 3rd Class Estrada, a Navy hospital corpsman, was assigned to the 11th Marine Expeditionary Unit based at Camp Pendleton, CA.

PO1 Paris S. Pough, 40, of Columbus, GA, died February 17 during a port visit in Dubai, United Arab Emirates. Petty Officer First Class Pough, a hull technician, was assigned to the USS Carl Vinson (CVN 70), home-ported in San Diego, CA.

FALLEN MARINES

Mrs. BOXER. Mr. President, California and the Nation are mourning the loss of seven courageous and dedicated marines who died last week in a midair helicopter collision during a routine training exercise in a remote mountain area in Imperial County, CA.

This is a tragic loss for our military and our Nation. It is also a reminder of the sacrifices that all our servicemembers make each and every day. These brave men and women put themselves in harm's way to keep us safe—whether they are engaged in combat, conducting humanitarian missions, or taking part in training exercises here at home.

I ask my colleagues to join me in paying tribute to these marines: Maj.

Thomas A. Budrejko of Montville, Connecticut; Capt. Michael M. Quin of Purcellville, Virginia; Capt. Benjamin N. Cerniglia of Montgomery, Alabama; Capt. Nathan W. Anderson of Amarillo, Texas; Sgt. Justin A. Everett of Clovis, California; LCpl Corey A. Little of Marietta, Georgia; and LCpl Nickoulas H. Elliott of Spokane, Washington.

Six of the victims were stationed at Marine Corps Base Camp Pendleton in San Diego County. The seventh was stationed at Marine Corps Air Station in Yuma, AZ.

At this time of great sorrow, my thoughts and prayers are with the families and friends of these seven marines. Nothing can fully account for the tremendous loss they have suffered, but I hope they can take comfort in knowing that their loved ones will be forever remembered and honored by a grateful nation.

COMMENDING SENATOR CARL LEVIN

Mr. MCCAIN. Mr. President, I recently had the privilege of speaking at an event sponsored by the Center for the National Interest which honored our colleague from Michigan, Senator CARL LEVIN, with their 2012 Distinguished Service Award. In addition to being my colleague, I am proud to call CARL LEVIN a dear friend, and I ask unanimous consent that my remarks honoring Senator LEVIN be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR JOHN MCCAIN IN HONOR OF SENATOR CARL LEVIN, DELIVERED ON FEBRUARY 15, 2012

Thank you. I'm glad to be here, and I'm grateful to the Center for giving me an opportunity to say a few words about your honoree, my friend, Carl Levin.

Carl and I have served on the Senate Armed Services Committee together since I first came to the Senate, which it pains me to recall, was over a quarter century ago. That's not as long as Carl has been there, however. I think you were elected shortly after the Spanish American War, weren't you, Carl? No? I thought I had read you had been on the committee when it refused to authorize Teddy Roosevelt's Great White Fleet.

As you all know, Carl is a proud Democrat, and I'm not. That difference is quite obvious on any number of issues before the Senate. What I hope has always been just as obvious is how greatly I admire and respect the man.

We have our moments on the committee. Debate among the members can get a little passionate at times, though I hope never rancorous. The members are quite proud of the committee's tradition of bipartisan cooperation. I think we appreciate the gravity of our responsibility to help maintain the defense of our country, and the obligation we have to do right by the men and women of the United States Armed Forces, who have risked everything on our behalf. I think Carl and I both feel their example of selfless sacrifice would make us feel ashamed if we let the committee descend into the partisan posturing that often makes it hard for Congress to serve the national interest. When members disagree on the committee, even heatedly, more often than not, it's because we feel sincerely passionate about whatever issue is in dispute. And even then, I think we try to maintain civility and respect for one another, and we do not let it prevent us from completing the committee's business.

That we have managed to keep that reputation in these contentious times is a tribute to the man who has served as the Committee's chairman or ranking Democrat since 1997. He has kept the committee focused on its duties and not on the next election or the latest rush-to-the-barricades partisan quarrel that has momentarily consumed the Senate's attention. He does so in a calm, measured, patient and intelligent manner. He seems to become even calmer and more patient in moments of disagreement when tempers and emotions among the membership start to rise. He and I have slightly different leadership styles, of course. I'm much gentler and less confrontational. But Carl's style seems to work for him.

The committee has a heavy workload every year, and Carl manages to keep us all in harness and working together at a pace and in a constructive, results oriented approach that is the envy of the dozen or so lesser committees of the Senate. Our principle responsibility is to produce the defense authorization bills one of the most important and comprehensive pieces of legislation the Senate considers on an annual basis. The committee has never failed to report the bill, and the Senate has never failed to pass it. That's not an accomplishment that some of those lesser committees I just referred to can claim every year. And no one deserves more of the credit for it than Carl Levin.

When Carl first joined the committee, he explained his reason for seeking the assignment this way: ''I had never served, and I thought there was a big gap in terms of my background and, frankly, felt it was a way of providing service.'' He might have never served in the military, but he has surely served it, and served it well. And he has served the national interests our armed forces protect in an exemplary manner that the rest of us would be wise to emulate.

He is a man of principle, ability, and serious purpose. He has the respect of his colleagues on both sides of the aisle. We all listen to him, and we listen closest to him on the occasions when we disagree with him. That's a great compliment from a Senator. It is a tribute paid to only the most revered members of the Senate. But the greatest compliment one senator can pay another is to credit him or her as a person who keeps their word. Why that's so rare in our work is a mystery. But I can attest Carl possesses the virtue. He has never broken his word to me.

We recently found ourselves in a dispute with the administration over how and where to prosecute detainees captured in the war on terror. Most people on my side of the aisle agreed with my position. Many people on Carl's side and in the administration disagreed with his. But he never wavered. He never backed out of a deal, and he argued our case far more effectively than I could. We did what we usually do on the committee under Carl's leadership. We found a way to settle the dispute without abandoning our responsibilities. Carl deserves most of the credit for that, too.

On a personal note, that controversy reminded me again of one of the great satisfactions in life. And that, my friends, is when you fight for a common cause with someone you haven't always agreed with, whose background, views and personality are distinctly different than yours, and you discover that despite your differences, you have always been on the same side on the big things.

Thank you, Carl, for your friendship and your example.

JUDICIAL NOMINATIONS

Mrs. GILLIBRAND. Mr. President, today I wish to discuss the current judicial vacancy crisis. We have in many instances abrogated our responsibility to advise and consent in the nomination process. An estimated 160 million people live in districts with a courtroom vacancy that could have been filled last year with the cooperation of Senate Republicans. There are currently 20 nominees who have been approved by the Senate Judiciary Committee or are waiting a simple up-or-down vote which Republicans have historically supported. One of these nominees is Ronnie Abrams.

Ms. Abrams was nominated in July of 2011 by President Obama to serve as a Federal judge for the U.S. District Court for the Southern District of New York. She is currently a lawyer with the law firm Davis Polk & Wardwell. She is also an adjunct professor at Columbia Law School, teaching a seminar on the investigation and prosecution of Federal criminal cases. Prior to her current positions, Ms. Abrams distinguished herself as a prosecutor, rising to deputy chief, Criminal Division, at the U.S. Attorney's Office of the Southern District of New York. As deputy chief, she supervised over 160 prosecutors in cases involving violent crimes, white-collar crimes, public corruption, narcotics trafficking, and computer crimes. In recognition of her service, she was awarded the Department of Justice Director's Award for Superior Performance as a Federal Prosecutor. Ms. Abrams is a highly experienced and exceptional attorney, who is extremely well qualified to serve as a Federal court judge. A nominee of this caliber deserves to be quickly confirmed by the Senate.

In particular, we should have a renewed, bipartisan commitment to confirming more women to the bench. Over the past three decades, an increasing number of women have joined the legal profession. In recent years, law schools have seen the number of female students increase. According to the National Women's Law Center, women now make up nearly half of all law students. But the number of women in the Federal judiciary has stagnated and women are woefully underrepresented. It is of critical importance to increase the representation of women and communities of color on the Federal bench. Today, women make up roughly 30 percent of the Federal bench. When women are fairly represented on our Federal courts, those courts are more reflective of our society.

What is disturbing about this vacancy crisis is that the total number of Federal circuit and district court judges confirmed during the first 3 years of the Obama administration is far less than for previous Presidents.

For instance, the Senate has confirmed only 124 of President Obama's Federal circuit and district court nominees, compared to 168 Federal circuit and district court judges confirmed at this point in the Presidency of George W. Bush and 183 Federal circuit and district court judges confirmed at this point in President Clinton's administration.

To give you an even better breakdown, there are 20 judicial nominations reported favorable by the Judiciary Committee, 15 of which have been pending since last year, 18 of which have strong bipartisan support. So why is there a delay in confirming these nominees? Senate Republicans have failed to offer an answer.

Nominees such as Ronnie Abrams deserve better by receiving a swift up-or-down vote. The American people deserve better by having representation in their district and circuit courts. We need to give these nominees, most of whom have strong bipartisan support, a full up-or-down vote by the Senate. If we continue down this road of rejecting nominees simply because their nomination originates across the aisle, we are establishing an impossible standard that no nominee will ever meet. We ought to have the same respect for the judicial system that we have for the legislative system in which we ourselves work. I urge my colleagues to help move these nominees forward.

ADDITIONAL STATEMENTS

TRIBUTE TO LIEUTENANT COLONEL JOSEPH NIALL DALEY

● Mr. BROWN of Massachusetts. Mr. President, I wish today to recognize LTC Joseph Niall Daley, who is retiring after over 20 years of dedicated service in the U.S. Air Force and Massachusetts Air National Guard.

Lieutenant Colonel Daley was commissioned as a second lieutenant in the U.S. Air Force in 1990 and served on Active Duty for 10 years as an aviator, at which time he joined the Massachusetts Air National Guard. He flew combat missions in Bosnia, 1997, and Iraq, 1998 and 2003.

Lieutenant Colonel Daley has had a distinguished military career, becoming an O/A–10A aircraft commander where he maintained a mission-ready status in support of worldwide deployment requirements. As an aviator he acquired an in-depth knowledge of U.S., allied, and enemy tactical and electronic warfare capabilities. He led and instructed formations of multiple O/A–10A aircraft in many diverse missions in both the day and nighttime environments. These missions included close air support, air interdiction, combat search and rescue, airlift escort, and joint air attack team tactics.

While serving in the Massachusetts Air National Guard as an expert O/A–10A pilot with the 131st Fighter Squadron, Lieutenant Colonel Daley directly contributed to the success of the unit by providing sound leadership and experience. Assigned to the 131st Fighter Squadron as the Assistant Charlie Flight Commander, and one of the Squadron's top instructor pilots, he ensured his flight members were prepared to employ the aircraft at its optimal performance when called to deployment in 2003. Lieutenant Colonel Daley was instrumental to the wing as one of the primary trainers to implement the Litening II Pod during its initial test phases. His oversight and dynamic vision were critical during both peacetime and war-time missions. Following the 2005 base realignment and closure, Lieutenant Colonel Daley accepted a key role in the wing staff, serving as the base historian. His efforts ensured the activities of the unit were documented and preserved, allowing the wing the opportunity to be recognized by the National Guard, Air Force, and the Department of Defense. Lieutenant Colonel Daley's accomplishments culminate a distinguished career in the service of his State and country and reflect great credit upon himself, the Massachusetts Air National Guard, and the U.S. Air Force.

I would like to thank Lieutenant Colonel Daley for his tremendous service to our Nation. I know that his wife, U.S. Senator KELLY AYOTTE, their children, Katherine and Jacob, as well as the people of New Hampshire and Massachusetts are extremely proud of his selfless service.●

TRIBUTE TO DR. HEATH MORRISON

● Mr. HELLER. Mr. President, today I wish to congratulate Dr. Heath Morrison, who has been recognized as the 2012 American Association of School Administrators—AASA—National Superintendent of the Year. My home State of Nevada is proud and privileged to acknowledge such an extraordinary educator and leader.

Since 2009, Dr. Morrison has served as superintendent for the Washoe County School District where he has proven to be an innovator in education. During his tenure, the Washoe County School District has achieved higher test scores and has seen their graduation rate rise to 70 percent. Outside the classroom, Dr. Morrison continues to encourage and develop student performance by creating personal connections with the local community.

Engaging with Washoe County residents has allowed Dr. Morrison to foster relationships with parents, volunteers, and local businesses in order to create and enhance scholastic opportunities for students. I commend Dr. Morrison for his strong leadership and positive influence on Nevada's youth.

I admire and recognize the desire of our educators to uphold high education standards for our nation. Their guidance and encouragement provide students with the ability to become lifelong learners with a thirst for knowledge. Now more than ever, it is of paramount importance to prepare our children and grandchildren to compete in the 21st century.

Nevada is fortunate to have such great educational leadership serving the students across our great State. I ask my colleagues to join me in congratulating Dr. Morrison and celebrating the achievements of our Nation's teachers, administrators, and staff who help to guide our students to educational excellence.●

RECOGNIZING SOUTH ST. PAUL, MINNESOTA

● Mr. FRANKEN. Mr. President, I want to take this opportunity to honor the 125th birthday of South St. Paul, MN. First, I feel the need to clarify for this body that South St. Paul isn't exactly directly south of Saint Paul. West St. Paul is. And I know that's confusing. South St. Paul is closer to Southeast. And West St. Paul is South. And Minneapolis is, of course, West. I'm sure there's a very good reason for the confusing names, but I have no idea what that would be.

South St. Paul is the perfect example of the kind of hard-working, Midwestern industrial town that has been the anchor of America. The South St. Paul Stockyards opened in 1886 and eventually grew to be one of the leading livestock centers in the world, with millions of livestock being sold from its pens. A shifting marketplace finally forced the stockyards to close in 2008, but like much of America, South St. Paul has adapted along with the changing world.

The stockyards, which had existed since South St. Paul's founding, left an indelible mark on the city even after they closed. The people of South St. Paul are instilled with a hardy work ethic, which will serve the city well in its next 125 years.

As a part of the greater Twin Cities metropolitan area where I grew up, I know the sky is the limit for the people of South St. Paul. It is my distinct pleasure to represent them in the United States Senate. Congratulations to the residents of South St. Paul.●

RECOGNIZING ROY CITY DIAMOND JUBILEE

● Mr. LEE. Mr. President, I would like to congratulate Roy City, UT for reaching the 75th anniversary of its original incorporation in 1937.

Roy City was first settled in 1873 by William Evans Baker. At the time, the area was seen as dry and desert-like, not a likely place for a town. Baker convinced three brothers-in-law to join him, eventually forming what would come to be affectionately known as ''Cousin Street'' because all of the residents along the road were cousins. The settlers came up with an industrious way to bring much-needed clean water to the area, digging a canal from nearby mountains. With water came a sense of permanence for the town.

Twenty-one years after the first settlement, the area's residents agreed to establish a post office, which required that the town be given an official name. It had been called many things, from Central City to Sandridge to Lakeview. The decision was to be made in the wake of a tragic death, that of Roy Peebles, the young son of Reverend David Peebles. Locals decided that the town should be named after Roy, and on May 24, 1894, Roy had a name and a post office.

Roy remained a quiet, sparsely populated area until the 1940s, when Hill Field was established nearby. Roy City suddenly grew rapidly, forcing an equally rapid expansion of services. For a brief period, overflowing classes for schoolchildren were held in the halls. A semi-permanent solution was found in busing students across Ogden to other solutions, and a permanent solution was finally completed in 1965 in the form of Roy High School. It became the largest high school in Weber County, and has been ranked as one of the top ten high schools in the country.

Thanks to spending by members of the military working at Hill Air Force Base, the Navy Supply Depot, and the Defense Supply Depot, businesses in Roy City expanded quickly during and after WWII. In 1953, the city was granted a charter to establish Utah's first branch bank, paving the way for branch banks to spread throughout Utah.

In recent years, Roy City has been called ''Weber County's Fastest Growing City,'' boasting over 35,000 residents. It has also been regularly lauded as one of Utah's most fiscally well-managed cities. Roy City now offers its citizens a host of modern businesses, conveniences, and services, from biking trails to an aquatic center.

To mark this year's special anniversary, Mayor Joe Ritchie will be presiding over the burial of a time capsule that is to be opened in 25 years, exactly one century after the city's incorporation. May the last quarter of that journey be as productive and successful as the first three.●

MESSAGE FROM THE HOUSE

At 2:06 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1837. An act to address certain water-related concerns on the San Joaquin River, and for other purposes.

H.R. 3902. An act to amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia.

The message also announced that the House has passed the following bill, without amendment:

S. 1134. An act to authorize the St. Croix River Crossing Project with appropriate mitigation measures to promote river values.

The message further announced that pursuant to 10 U.S.C. 4355(a) clause 10 of rule I, and the order of the House of January 5, 2011, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors of the United States Military Academy: Mr. HINCHEY of New York, Ms. LORETTA SANCHEZ of California.

The message also announced that pursuant to section 703 of the Social Security Act (42 U.S.C. 903) and the order of the House of January 5, 2011, and upon the recommendation of the Minority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Social Security Advisory Board for a term of 6 years: Ms. Barbara Kennelly of Hartford, Connecticut.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3902. An act to amend the District of Columbia Home Rule Act to revise the timing of special elections for local office in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5154. A communication from the Acting Administrator of the U.S. Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled ''The Availability and Price of Petroleum and Petroleum Products Produced in Countries Other Than Iran''; to the Committee on Energy and Natural Resources.

EC–5155. A communication from the Deputy Director for Policy, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single—Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Part 4022) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–5156. A communication from the Assistant General Counsel for Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Priorities—Safe and Healthy Students Discretionary Grants Programs'' (CFDA Nos. 84.184A, 84.215M, 84.184J, 84.184L, 84.215H, and 84.215E) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–5157. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Establishment, Maintenance, and Availability of Records: Amendment to Record Availability Requirements'' (RIN0910–AG73) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–5158. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Summary of Benefits and Coverage and Uniform Glossary'' (RIN1210–AB52) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–5159. A communication from the Assistant Secretary for the Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''YouthBuild Program'' (RIN1205–AB49) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–5160. A communication from the Assistant Secretary for the Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Temporary Non-Agricultural Employment of H–2B Aliens in the United States'' (RIN1205–AB58) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–5161. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the Board's Strategic Plan for fiscal years 2012–2016 and the Annual Performance Plan for fiscal year 2012 (revised) and fiscal year 2013 (proposed); to the Committee on Homeland Security and Governmental Affairs.

EC–5162. A communication from the Secretary of the Board of Governors, U.S. Postal Service, transmitting, pursuant to law, a report relative to the Postal Accountability and Enhancement Act of 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–5163. A communication from the Counsel for Regulatory and External Affairs, Federal Labor Relations Authority, transmitting, pursuant to law, the report of a rule entitled ''Procedures of the Panel; Impasses Arising Pursuant to Agency Determinations Not to Establish or to Terminate Flexible or Compressed Work Schedules'' (5 CFR Parts 2471 and 2472) received in the Office of the President of the Senate on February 14, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5164. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law, the report of a rule entitled ''Change of Address and Electronic Submission of FOIA Requests'' (5 CFR Parts 1630, 1631, and 1632) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5165. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''General Services Administration Acquisition Regulation; Acquisition-Related Thresholds'' (RIN3090–AJ24) received during adjournment of the Senate in the Office of the President of the Senate on February 22, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5166. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2011–030, New Designated

Country (Armenia) and Other Trade Agreements Updates'' ((RIN9000–AM16) (FAC 2005–56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5167. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2010–009, Government Property'' ((RIN9000–AL95) (FAC 2005–56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5168. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2011–004, Socioeconomic Program Parity'' ((RIN9000–AL88) (FAC 2005–56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5169. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2012–002, Trade Agreements Thresholds'' ((RIN9000–AM17) (FAC 2005–56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5170. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2007–012, Requirements for Acquisitions Pursuant to Multiple-Award Contracts'' ((RIN9000–AL93) (FAC 2005–56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5171. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–56, Technical Amendments'' (FAC 2005–56) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5172. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–56, Small Entity Compliance Guide'' (FAC 2005–56) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5173. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2010–015, Women-Owned Small Business (WOSB) Program'' ((RIN9000–AL97) (FAC 2005–56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5174. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2008–030, Proper Use and Management of Cost-Reimbursement Contracts'' ((RIN9000–AL78) (FAC 2005–56)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5175. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–56, Introduction'' (FAC 2005–56) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5176. A communication from the Human Resources Specialist, Office of the Executive Director, Office of Navajo and Hopi Indian Relocation, transmitting, pursuant to law, the Office's annual report on the category rating system; to the Committee on Indian Affairs.

EC–5177. A communication from the Deputy General Counsel, Office of the General Counsel, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Women-Owned Small Business Federal Contract Program'' (RIN3245–AG34) received during adjournment of the Senate in the Office of the President of the Senate on February 24, 2012; to the Committee on Small Business and Entrepreneurship.

EC–5178. A communication from the Director of the Regulation Policy and Management Office of the General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Due Date of Initial Application Requirements for State Home Construction Grants'' (RIN2900–AN77) received in the Office of the President of the Senate on February 27, 2012; to the Committee on Veterans' Affairs.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Andrew David Hurwitz, of Arizona, to be United States Circuit Judge for the Ninth Circuit.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mrs. MURRAY, Mr. AKAKA, Mr. LEAHY, Mr. FRANKEN, Mr. BLUMENTHAL, Mr. BROWN of Ohio, Mrs. BOXER, and Mr. DURBIN):

S. 2145. A bill to amend the Internal Revenue Code of 1986 to permit the Secretary of the Treasury to issue prospective guidance clarifying the employment status of individuals for purposes of employment taxes and to prevent retroactive assessments with respect to such clarifications; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. WYDEN, Mr. SANDERS, Mr. UDALL of Colorado, Mr. FRANKEN, Mr. COONS, Mr. KERRY, Mr. WHITEHOUSE, and Mr. UDALL of New Mexico):

S. 2146. A bill to amend the Public Utility Regulatory Policies Act of 1978 to create a market-oriented standard for clean electric energy generation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BEGICH:

S. 2147. A bill to provide for research, monitoring, and observation of the Arctic Ocean and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INHOFE (for himself, Mr. VITTER, Mr. COBURN, Mr. GRASSLEY, Mr. BLUNT, and Mr. ENZI):

S. 2148. A bill to amend the Toxic Substance Control Act relating to lead-based paint renovation and remodeling activities; to the Committee on Environment and Public Works.

By Mr. MERKLEY (for himself, Mr. BROWN of Ohio, Mr. DURBIN, Mr. MENENDEZ, Mr. SCHUMER, and Mr. HARKIN):

S. 2149. A bill to exclude from consumer credit reports medical debt that has been in collection and has been fully paid or settled, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. SNOWE:

S. 2150. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mr. CHAMBLISS, Mr. GRASSLEY, Ms. MURKOWSKI, Mr. COATS, Mr. BURR, and Mr. JOHNSON of Wisconsin):

S. 2151. A bill to improve information security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VITTER (for himself, Mr. RUBIO, Mr. HOEVEN, Mr. DEMINT, Mr. KIRK, Mr. BLUNT, and Mr. HATCH):

S. Res. 385. A resolution condemning the Government of Iran for its continued persecution, imprisonment, and sentencing of Youcef Nadarkhani on the charge of apostasy; to the Committee on Foreign Relations.

By Mr. HOEVEN (for himself, Mr. BLUMENTHAL, Mr. LIEBERMAN, Mr. GRAHAM, Mr. MCCAIN, Mr. BEGICH, Mr. SESSIONS, Mr. NELSON of Nebraska, Ms. AYOTTE, Mr. COONS, Mr. MCCONNELL, Ms. MIKULSKI, Mr. CORNYN, Mr. SCHUMER, Mr. THUNE, Mrs. SHAHEEN, Mr. ALEXANDER, Mrs. GILLIBRAND, Mr. RISCH, Mr. BROWN of Ohio, Mr. CHAMBLISS, Mr. MENENDEZ, Mr. BLUNT, Mrs. MCCASKILL, Ms. COLLINS, Mr. NELSON of Florida, Mr. ISAKSON, Mr. LAUTENBERG, Mr. BARRASSO, Mr. PRYOR, Mr. COATS, Mrs. FEINSTEIN, Mr. COBURN, Mr. UDALL of Colorado, Mr. JOHNSON of Wisconsin, Mr. CASEY, Mr. CRAPO, Mr. BENNET, Mr. GRASSLEY, Mr. WYDEN, Mr. HELLER, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LEE, Mr. PORTMAN, Mr. TOOMEY, Mr. WICKER, Mr. SHELBY, Mr. VITTER, Mr. BURR, Mr. BOOZMAN, Mr. BROWN of Massachusetts, Ms.

SNOWE, Mr. ROBERTS, Mr. COCHRAN, Mr. HATCH, Mr. MORAN, Ms. MURKOWSKI, Mr. RUBIO, Mr. JOHANNS, Mr. KOHL, Mr. DURBIN, Mr. FRANKEN, Mr. CONRAD, Ms. KLOBUCHAR, and Mr. ENZI):

S. Res. 386. A resolution calling for free and fair elections in Iran, and for other purposes; to the Committee on Foreign Relations.

By Mrs. GILLIBRAND (for herself, Mr. WHITEHOUSE, Ms. MIKULSKI, Mr. MENENDEZ, Mr. SANDERS, Mr. UDALL of Colorado, Mr. BROWN of Ohio, Mr. DURBIN, Mrs. MURRAY, Mr. NELSON of Florida, Mr. PRYOR, Mr. AKAKA, Mr. SCHUMER, Ms. LANDRIEU, Mr. BROWN of Massachusetts, Mr. MERKLEY, Mr. NELSON of Nebraska, Mr. FRANKEN, Mr. LAUTENBERG, Mrs. BOXER, Mr. COCHRAN, Mr. CARDIN, and Mr. LEVIN):

S. Res. 387. A resolution celebrating Black History Month; considered and agreed to.

By Mr. CARDIN (for himself, Mr. PORTMAN, Mr. KERRY, Ms. MIKULSKI, Mr. LEVIN, and Mr. SESSIONS):

S. Res. 388. A resolution commemorating the 200th anniversary of the War of 1812 and ''The Star Spangled Banner'', and recognizing the historical significance, heroic human endeavor, and sacrifice of the United States Army, Navy, Marine Corps, and Revenue Marine Service, and State militias, during the War of 1812; considered and agreed to.

By Mr. SCHUMER (for himself and Mr. ALEXANDER):

S. Con. Res. 35. A concurrent resolution to establish the Joint Congressional Committee on Inaugural Ceremonies for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013; considered and agreed to.

By Mr. SCHUMER (for himself and Mr. ALEXANDER):

S. Con. Res. 36. A concurrent resolution to authorize the use of the rotunda and Emancipation Hall of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States; considered and agreed to.

ADDITIONAL COSPONSORS

S. 491

At the request of Mr. PRYOR, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 491, a bill to amend title 38, United States Code, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law, and for other purposes.

S. 593

At the request of Mr. SCHUMER, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 593, a bill to amend the Internal Revenue Code of 1986 to modify the tax rate for excise tax on investment income of private foundations.

S. 1086

At the request of Mr. HARKIN, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S. 1086, a bill to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 1167

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1167, a bill to amend the Public Health Service Act to improve the diagnosis and treatment of hereditary hemorrhagic telangiectasia, and for other purposes.

S. 1544

At the request of Mr. TOOMEY, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 1544, a bill to amend the Securities Act of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such Act.

S. 1616

At the request of Mr. MENENDEZ, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1616, a bill to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investments in United States real property interests, and for other purposes.

S. 1886

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1886, a bill to prevent trafficking in counterfeit drugs.

S. 1930

At the request of Mr. TOOMEY, the name of the Senator from Utah (Mr. LEE) was added as a cosponsor of S. 1930, a bill to prohibit earmarks.

S. 1935

At the request of Mrs. HAGAN, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. 1935, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation.

S. 1980

At the request of Mr. INOUYE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1980, a bill to prevent, deter, and eliminate illegal, unreported, and unregulated fishing through port State measures.

S. 2032

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2032, a bill to amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers.

S. 2036

At the request of Mrs. GILLIBRAND, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 2036, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the National Baseball Hall of Fame.

S. 2057

At the request of Mr. SCHUMER, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 2057, a bill to amend title XVIII of the Social Security Act to allow physician assistants, nurse practitioners, and clinical nurse specialists to supervise cardiac, intensive cardiac, and pulmonary rehabilitation programs.

S. 2100

At the request of Mr. VITTER, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2100, a bill to suspend sales of petroleum products from the Strategic Petroleum Reserve until certain conditions are met.

S. 2103

At the request of Mr. LEE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2103, a bill to amend title 18, United States Code, to protect pain-capable unborn children in the District of Columbia, and for other purposes.

S. 2118

At the request of Mr. CORNYN, the names of the Senator from Mississippi (Mr. WICKER), the Senator from Arizona (Mr. KYL) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2118, a bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board.

S. 2139

At the request of Mrs. MCCASKILL, the names of the Senator from Minnesota (Mr. FRANKEN) and the Senator from Connecticut (Mr. BLUMENTHAL) were added as cosponsors of S. 2139, a bill to enhance security, increase accountability, and improve the contracting of the Federal Government for overseas contingency operations, and for other purposes.

AMENDMENT NO. 1538

At the request of Mr. ROBERTS, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 1538 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1617

At the request of Ms. KLOBUCHAR, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 1617 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1671

At the request of Mr. CARPER, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Rhode Island (Mr. WHITEHOUSE) and the

Senator from Vermont (Mr. SANDERS) were added as cosponsors of amendment No. 1671 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1702

At the request of Mr. CARPER, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of amendment No. 1702 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1743

At the request of Mr. BLUNT, the names of the Senator from South Carolina (Mr. DEMINT) and the Senator from Utah (Mr. LEE) were added as cosponsors of amendment No. 1743 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. WYDEN, Mr. SANDERS, Mr. UDALL of Colorado, Mr. FRANKEN, Mr. COONS, Mr. KERRY, Mr. WHITEHOUSE, and Mr. UDALL of New Mexico):

S. 2146. A bill to amend the Public Utility Regulatory Policies Act of 1978 to create a market-oriented standard for clean electric energy generation, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, let me take a few minutes to describe this legislation for my colleagues and, hopefully, urge them to seriously consider the legislation. It is introduced by me with several cosponsors: Senator WYDEN, Senator SANDERS, Senator MARK UDALL of Colorado, Senator FRANKEN, Senator COONS, Senator KERRY, Senator WHITEHOUSE, and Senator TOM UDALL from my home State of New Mexico. All of those individuals strongly support what we are trying to do in this legislation.

I particularly want to thank the staff of the Senate Energy Committee for the hard work they put into developing this proposal, and particularly Kevin Rennert, who worked very hard on this proposal and got a lot of very useful input from many sectors and many individuals.

This is a simple plan to modernize the power sector and guide it toward a future in which more and more of our electricity is generated with cleaner and cleaner energy. The purpose of the legislation is to make sure that, as we continue to grow and power our economy, we leverage the clean resources we have available today and also provide a continuing incentive to develop the cheaper, cleaner technologies that will be needed in the future.

We want to make sure we drive continued diversity in our energy sources and allow every region of the country to deploy clean energy using the appropriate resources for that region. We want to make sure we do all of this in a way that supports homegrown innovation and manufacturing and that keeps us competitive in the global clean energy economy. The plan we are putting forward with this legislation would implement a clean energy standard, or CES for short.

Let me describe how it works. Starting in 2015, the largest utilities in the country would meet the clean energy standard by showing that a certain percentage of the electricity they sell is produced from clean energy sources. The initial percentage for 2015 is within the capabilities of those utilities today, and each year after 2015 they would be required to sell a little bit more of their electricity from clean sources. They can do so either by making incremental adjustments to their own energy mix to become cleaner and more efficient or by purchasing clean energy from those who provide it at the lowest cost or by purchasing credits on an open and transparent market.

To be considered clean, a generator must either be a zero carbon source of energy, such as, renewables and nuclear power, or a generator must have a lower carbon intensity than a modern, efficient coal plant. By carbon intensity, I mean the amount of carbon dioxide emitted per megawatt hour of electricity generated. Generators with low or no carbon intensity receive credits based on that criterion.

For example, renewables will receive a full credit per megawatt hour. Most natural gas generators would qualify for something around a half credit, and the more efficient natural gas generators would be incentivized compared to less efficient generators. A coal powerplant would receive some credits if it lowered its carbon intensity by installing carbon-capture technologies, by cofiring with renewable biomass.

Accounting for clean in this way means the cleanest resources have the greatest incentive. Also, it means every generator has a continuing incentive to become even more efficient. As the standard increases over time, the generation fleet will transition naturally toward cleaner and cleaner sources to meet it. The clean energy standard sets an overall goal for clean energy, but the optimal and the cheapest set of technologies to use will be determined by the free market. The rate of transition is predictable and it is achievable and the rules of the road are transparent and they are clear.

In addition to driving cleaner electricity generation in the power sector, the clean energy standard also rewards industrial efficiency. Combined heat and power units generate electricity while also capturing and using the heat for other purposes, and these units are treated as clean generators under this proposal for the clean energy standard. This will help to deploy this kind of efficiency throughout our country and will provide another source of inexpensive clean energy.

Let me also describe what this proposal does not do. The clean energy standard does not put a limit on overall emissions. It does not limit the growth of electricity generation to meet the demands of a growing economy. All that the clean energy standard requires is that the generation we do use in future years and that we add to our fleet gradually becomes cleaner over time.

The clean energy standard does not cost the government anything, and it does not raise money for the government to use either. If any money does come to the Treasury as a result of the program because of refusal to participate or to comply, that money would go directly back to the particular State from which it came to fund energy-efficiency programs.

Finally, the clean energy standard will not hurt the economy. This past fall I asked the Energy Information Administration to analyze a number of clean energy standard policy options. The results of their study showed a properly designed clean energy standard would have almost zero impact on gross domestic product growth and little or no impact on nationally averaged electricity rates for the first decade of the program. The Energy Information Administration analysis did show that a clean energy standard would result in a substantial deployment of new clean energy and carbon reductions between 20 percent and 40 percent in the power sector by 2035, which is the timeframe provided for in the proposal.

I have asked the Energy Information Administration to update their modeling to reflect this final proposal that we are introducing today, and when they have completed that analysis in the next few weeks I plan to hold hearings on the proposal to further explore the benefits and effects of the clean energy standard in the Energy Committee.

The goal of the clean energy standard is ambitious. It is a doubling of clean energy production in this country by 2035. But analysis has shown that the goal is achievable and affordable. Meeting the clean energy standard will yield substantial benefits to our health and to our economy and to our global competitiveness, and, of course, to our environment.

The bill we are introducing today is simple. It sets a national goal for clean energy. It establishes a transparent framework that lets resources compete to achieve that goal based on how clean they are, and then it gets out of the way and lets the market and American ingenuity determine the best path forward.

I think this is a very well thought out proposal and one that deserves the

attention of all colleagues. I hope they will look at it seriously, and I hope we can attract additional supporters and cosponsors as the weeks proceed in the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2146

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clean Energy Standard Act of 2012''.

SEC. 2. FEDERAL CLEAN ENERGY STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

''SEC. 610. FEDERAL CLEAN ENERGY STANDARD.

''(a) PURPOSE.—The purpose of this section is to create a market-oriented standard for electric energy generation that stimulates clean energy innovation and promotes a diverse set of low- and zero-carbon generation solutions in the United States at the lowest incremental cost to electric consumers.

''(b) DEFINITIONS.—In this section:

''(1) CLEAN ENERGY.—The term 'clean energy' means electric energy that is generated—

''(A) at a facility placed in service after December 31, 1991, using—

''(i) renewable energy;

''(ii) qualified renewable biomass;

''(iii) natural gas;

''(iv) hydropower;

''(v) nuclear power; or

''(vi) qualified waste-to-energy;

''(B) at a facility placed in service after the date of enactment of this section, using—

''(i) qualified combined heat and power; or

''(ii) a source of energy, other than biomass, with lower annual carbon intensity than 0.82 metric tons of carbon dioxide equivalent per megawatt-hour;

''(C) as a result of qualified efficiency improvements or capacity additions; or

''(D) at a facility that captures carbon dioxide and prevents the release of the carbon dioxide into the atmosphere.

''(2) NATURAL GAS.—

''(A) INCLUSION.—The term 'natural gas' includes coal mine methane.

''(B) EXCLUSIONS.—The term 'natural gas' excludes landfill methane and biogas.

''(3) QUALIFIED COMBINED HEAT AND POWER.—

''(A) IN GENERAL.—The term 'qualified combined heat and power' means a system that—

''(i) uses the same energy source for the simultaneous or sequential generation of electrical energy and thermal energy;

''(ii) produces at least—

''(I) 20 percent of the useful energy of the system in the form of electricity; and

''(II) 20 percent of the useful energy in the form of useful thermal energy;

''(iii) to the extent the system uses biomass, uses only qualified renewable biomass; and

''(iv) operates with an energy efficiency percentage that is greater than 50 percent.

''(B) DETERMINATION OF ENERGY EFFICIENCY.—For purposes of subparagraph (A), the energy efficiency percentage of a combined heat and power system shall be determined in accordance with section 48(c)(3)(C)(i) of the Internal Revenue Code of 1986.

''(4) QUALIFIED EFFICIENCY IMPROVEMENTS OR CAPACITY ADDITIONS.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the term 'qualified efficiency improvements or capacity additions' means efficiency improvements or capacity additions made after December 31, 1991, to—

''(i) a nuclear facility placed in service on or before December 31, 1991; or

''(ii) a hydropower facility placed in service on or before December 31, 1991.

''(B) EXCLUSION.—The term 'qualified efficiency improvements or capacity additions' does not include additional electric energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions.

''(C) MEASUREMENT AND CERTIFICATION.—In the case of hydropower, efficiency improvements and capacity additions under this paragraph shall be—

''(i) measured on the basis of the same water flow information that is used to determine the historic average annual generation for the applicable hydroelectric facility; and

''(ii) certified by the Secretary or the Commission.

''(5) QUALIFIED RENEWABLE BIOMASS.—The term 'qualified renewable biomass' means renewable biomass produced and harvested through land management practices that maintain or restore the composition, structure, and processes of ecosystems, including the diversity of plant and animal communities, water quality, and the productive capacity of soil and the ecological systems.

''(6) QUALIFIED WASTE-TO-ENERGY.—The term 'qualified waste-to-energy' means energy produced—

''(A) from the combustion of—

''(i) post-recycled municipal solid waste;

''(ii) gas produced from the gasification or pyrolization of post-recycled municipal solid waste;

''(iii) biogas;

''(iv) landfill methane;

''(v) animal waste or animal byproducts; or

''(vi) wood, paper products that are not commonly recyclable, and vegetation (including trees and trimmings, yard waste, pallets, railroad ties, crates, and solid-wood manufacturing and construction debris), if diverted from or separated from other waste out of a municipal waste stream; and

''(B) at a facility that the Commission has certified, on an annual basis, is in compliance with all applicable Federal and State environmental permits, including—

''(i) in the case of a facility that commences operation before the date of enactment of this section, compliance with emission standards under sections 112 and 129 of the Clean Air Act (42 U.S.C. 7412, 7429) that apply as of the date of enactment of this section to new facilities within the applicable source category; and

''(ii) in the case of a facility that produces electric energy from the combustion, pyrolization, or gasification of municipal solid waste, certification that each local government unit from which the waste originates operates, participates in the operation of, contracts for, or otherwise provides for recycling services for residents of the local government unit.

''(7) RENEWABLE ENERGY.—The term 'renewable energy' means solar, wind, ocean, current, wave, tidal, or geothermal energy.

''(c) CLEAN ENERGY REQUIREMENT.—

''(1) IN GENERAL.—Effective beginning in calendar year 2015, each electric utility that sells electric energy to electric consumers in a State shall obtain a percentage of the electric energy the electric utility sells to electric consumers during a calendar year from clean energy.

''(2) PERCENTAGE REQUIRED.—The percentage of electric energy sold during a calendar year that is required to be clean energy under paragraph (1) shall be determined in accordance with the following table:

''Calendar year	Minimum annual percentage
2015	24
2016	27
2017	30
2018	33
2019	36
2020	39
2021	42
2022	45
2023	48
2024	51
2025	54
2026	57
2027	60
2028	63
2029	66
2030	69
2031	72
2032	75
2033	78
2034	81
2035	84

''(3) DEDUCTION FOR ELECTRIC ENERGY GENERATED FROM HYDROPOWER OR NUCLEAR POWER.—An electric utility that sells electric energy to electric consumers from a facility placed in service in the United States on or before December 31, 1991, using hydropower or nuclear power may deduct the quantity of the electric energy from the quantity to which the percentage in paragraph (2) applies.

''(d) MEANS OF COMPLIANCE.—An electric utility shall meet the requirements of subsection (c) by—

''(1) submitting to the Secretary clean energy credits issued under subsection (e);

''(2) making alternative compliance payments of 3 cents per kilowatt hour in accordance with subsection (i); or

''(3) taking a combination of actions described in paragraphs (1) and (2).

''(e) FEDERAL CLEAN ENERGY TRADING PROGRAM.—

''(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish a Federal clean energy credit trading program under which electric utilities may submit to the Secretary clean energy credits to certify compliance by the electric utilities with subsection (c).

''(2) CLEAN ENERGY CREDITS.—Except as provided in paragraph (3)(B), the Secretary shall issue to each generator of electric energy a quantity of clean energy credits determined in accordance with subsections (f) and (g).

''(3) ADMINISTRATION.—In carrying out the program under this subsection, the Secretary shall ensure that—

''(A) a clean energy credit shall be used only once for purposes of compliance with this section; and

''(B) a clean energy credit issued for clean energy generated and sold for resale under a contract in effect on the date of enactment of this section shall be issued to the purchasing electric utility, unless otherwise provided by the contract.

''(4) DELEGATION OF MARKET FUNCTION.—

''(A) IN GENERAL.—In carrying out the program under this subsection, the Secretary may delegate—

''(i) to 1 or more appropriate market-making entities, the administration of a national clean energy credit market for purposes of establishing a transparent national market for the sale or trade of clean energy credits; and

''(ii) to appropriate entities, the tracking of dispatch of clean generation.

''(B) ADMINISTRATION.—In making a delegation under subparagraph (A)(ii), the Secretary shall ensure that the tracking and reporting of information concerning the dispatch of clean generation is transparent, verifiable, and independent of any generation or load interests subject to an obligation under this section.

''(5) BANKING OF CLEAN ENERGY CREDITS.—Clean energy credits to be used for compliance purposes under subsection (c) shall be valid for the year in which the clean energy credits are issued or in any subsequent calendar year.

''(f) DETERMINATION OF QUANTITY OF CREDIT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the quantity of clean energy credits issued to each electric utility generating electric energy in the United States from clean energy shall be equal to the product of—

''(A) for each generator owned by a utility, the number of megawatt-hours of electric energy sold from that generator by the utility; and

''(B) the difference between—

''(i) 1.0; and

''(ii) the quotient obtained by dividing—

''(I) the annual carbon intensity of the generator, as determined in accordance with subsection (g), expressed in metric tons per megawatt-hour; by

''(II) 0.82.

''(2) NEGATIVE CREDITS.—Notwithstanding any other provision of this subsection, the Secretary shall not issue a negative quantity of clean energy credits to any generator.

''(3) QUALIFIED COMBINED HEAT AND POWER.—

''(A) IN GENERAL.—The quantity of clean energy credits issued to an owner of a qualified combined heat and power system in the United States shall be equal to the difference between—

''(i) the product obtained by multiplying—

''(I) the number of megawatt-hours of electric energy generated by the system; and

''(II) the difference between—

''(aa) 1.0; and

''(bb) the quotient obtained by dividing—

''(AA) the annual carbon intensity of the generator, as determined in accordance with subsection (g), expressed in metric tons per megawatt-hour; by

''(BB) 0.82; and

''(ii) the product obtained by multiplying—

''(I) the number of megawatt-hours of electric energy generated by the system that are consumed onsite by the facility; and

''(II) the annual target for electric energy sold during a calendar year that is required to be clean energy under subsection (c)(2).

''(B) ADDITIONAL CREDITS.—In addition to credits issued under subparagraph (A), the Secretary shall award clean energy credits to an owner of a qualified heat and power system in the United States for greenhouse gas emissions avoided as a result of the use of a qualified combined heat and power system, rather than a separate thermal source, to meet onsite thermal needs.

''(4) QUALIFIED WASTE-TO-ENERGY.—The quantity of clean energy credits issued to an electric utility generating electric energy in the United States from a qualified waste-to-energy facility shall be equal to the product obtained by multiplying—

''(A) the number of megawatt-hours of electric energy generated by the facility and sold by the utility; and

''(B) 1.0.

''(g) DETERMINATION OF ANNUAL CARBON INTENSITY OF GENERATING FACILITIES.—

''(1) IN GENERAL.—For purposes of determining the quantity of credits under subsection (f), except as provided in paragraph (2), the Secretary shall determine the annual carbon intensity of each generator by dividing—

''(A) the net annual carbon dioxide equivalent emissions of the generator; by

''(B) the annual quantity of electricity generated by the generator.

''(2) BIOMASS.—The Secretary shall—

''(A) not later than 180 days after the date of enactment of this section, issue interim regulations for determining the carbon intensity based on an initial consideration of the issues to be reported on under subparagraph (B);

''(B) not later than 180 days after the date of enactment of this section, enter into an agreement with the National Academy of Sciences under which the Academy shall—

''(i) evaluate models and methodologies for quantifying net changes in greenhouse gas emissions associated with generating electric energy from each significant source of qualified renewable biomass, including evaluation of additional sequestration or emissions associated with changes in land use by the production of the biomass; and

''(ii) not later than 1 year after the date of enactment of this section, publish a report that includes—

''(I) a description of the evaluation required by clause (i); and

''(II) recommendations for determining the carbon intensity of electric energy generated from qualified renewable biomass under this section; and

''(C) not later than 180 days after the publication of the report under subparagraph (B)(ii), issue regulations for determining the carbon intensity of electric energy generated from qualified renewable biomass that take into account the report.

''(3) CONSULTATION.—The Secretary shall consult with—

''(A) the Administrator of the Environmental Protection Agency in determining the annual carbon intensity of generating facilities under paragraph (1); and

''(B) the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and the Secretary of Agriculture in issuing regulations for determining the carbon intensity of electric energy generated by biomass under paragraph (2)(C).

''(h) CIVIL PENALTIES.—

''(1) IN GENERAL.—Subject to paragraph (2), an electric utility that fails to meet the requirements of this section shall be subject to a civil penalty in an amount equal to the product obtained by multiplying—

''(A) the number of kilowatt-hours of electric energy sold by the utility to electric consumers in violation of subsection (c); and

''(B) 200 percent of the value of the alternative compliance payment, as adjusted under subsection (m).

''(2) WAIVERS AND MITIGATION.—

''(A) FORCE MAJEURE.—The Secretary may mitigate or waive a civil penalty under this subsection if the electric utility was unable to comply with an applicable requirement of this section for reasons outside of the reasonable control of the utility.

''(B) REDUCTION FOR STATE PENALTIES.—The Secretary shall reduce the amount of a penalty determined under paragraph (1) by the amount paid by the electric utility to a State for failure to comply with the requirement of a State renewable energy program, if the State requirement is more stringent than the applicable requirement of this section.

''(3) PROCEDURE FOR ASSESSING PENALTY.—The Secretary shall assess a civil penalty under this subsection in accordance with section 333(d) of the Energy Policy and Conservation Act (42 U.S.C. 6303(d)).

''(i) ALTERNATIVE COMPLIANCE PAYMENTS.—An electric utility may satisfy the requirements of subsection (c), in whole or in part, by submitting in lieu of a clean energy credit issued under this section a payment equal to the amount required under subsection (d)(2), in accordance with such regulations as the Secretary may promulgate.

''(j) STATE ENERGY EFFICIENCY FUNDING PROGRAM.—

''(1) ESTABLISHMENT.—Not later than December 31, 2015, the Secretary shall establish a State energy efficiency funding program.

''(2) FUNDING.—All funds collected by the Secretary as alternative compliance payments under subsection (i), or as civil penalties under subsection (h), shall be used solely to carry out the program under this subsection.

''(3) DISTRIBUTION TO STATES.—

''(A) IN GENERAL.—An amount equal to 75 percent of the funds described in paragraph (2) shall be used by the Secretary, without further appropriation or fiscal year limitation, to provide funds to States for the implementation of State energy efficiency plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), in accordance with the proportion of those amounts collected by the Secretary from each State.

''(B) ACTION BY STATES.—A State that receives funds under this paragraph shall maintain such records and evidence of compliance as the Secretary may require.

''(4) GUIDELINES AND CRITERIA.—The Secretary may issue such additional guidelines and criteria for the program under this subsection as the Secretary determines to be appropriate.

''(k) EXEMPTIONS.—

''(1) IN GENERAL.—This section shall not apply during any calendar year to an electric utility that sold less than the applicable quantity described in paragraph (2) of megawatt-hours of electric energy to electric consumers during the preceding calendar year.

''(2) APPLICABLE QUANTITY.—For purposes of paragraph (1), the applicable quantity is—

''(A) in the case of calendar year 2015, 2,000,000;

''(B) in the case of calendar year 2016, 1,900,000;

''(C) in the case of calendar year 2017, 1,800,000;

''(D) in the case of calendar year 2018, 1,700,000;

''(E) in the case of calendar year 2019, 1,600,000;

''(F) in the case of calendar year 2020, 1,500,000;

''(G) in the case of calendar year 2021, 1,400,000;

''(H) in the case of calendar year 2022, 1,300,000;

''(I) in the case of calendar year 2023, 1,200,000;

''(J) in the case of calendar year 2024, 1,100,000; and

''(K) in the case of calendar year 2025 and each calendar year thereafter, 1,000,000.

''(3) CALCULATION OF ELECTRIC ENERGY SOLD.—

''(A) DEFINITIONS.—In this subsection, the terms 'affiliate' and 'associate company' have the meanings given the terms in section 1262 of the Energy Policy Act of 2005 (42 U.S.C. 16451).

''(B) INCLUSION.—For purposes of calculating the quantity of electric energy sold by an electric utility under this subsection, the quantity of electric energy sold by an affiliate of the electric utility or an associate company shall be treated as sold by the electric utility.

''(l) STATE PROGRAMS.—

''(1) SAVINGS PROVISION.—

''(A) IN GENERAL.—Subject to paragraph (2), nothing in this section affects the authority of a State or a political subdivision of a State to adopt or enforce any law or regulation relating to—

''(i) clean or renewable energy; or

''(ii) the regulation of an electric utility.

''(B) FEDERAL LAW.—No law or regulation of a State or a political subdivision of a State may relieve an electric utility from compliance with an applicable requirement of this section.

''(2) COORDINATION.—The Secretary, in consultation with States that have clean and renewable energy programs in effect, shall facilitate, to the maximum extent practicable, coordination between the Federal clean energy program under this section and the relevant State clean and renewable energy programs.

''(m) ADJUSTMENT OF ALTERNATIVE COMPLIANCE PAYMENT.—Not later than December 31, 2016, and annually thereafter, the Secretary shall—

''(1) increase by 5 percent the rate of the alternative compliance payment under subsection (d)(2); and

''(2) additionally adjust that rate for inflation, as the Secretary determines to be necessary.

''(n) REPORT ON CLEAN ENERGY RESOURCES THAT DO NOT GENERATE ELECTRIC ENERGY.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to Congress a report examining mechanisms to supplement the standard under this section by addressing clean energy resources that do not generate electric energy but that may substantially reduce electric energy loads, including energy efficiency, biomass converted to thermal energy, geothermal energy collected using heat pumps, thermal energy delivered through district heating systems, and waste heat used as industrial process heat.

''(2) POTENTIAL INTEGRATION.—The report under paragraph (1) shall examine the benefits and challenges of integrating the additional clean energy resources into the standard established by this section, including—

''(A) the extent to which such an integration would achieve the purposes of this section;

''(B) the manner in which a baseline describing the use of the resources could be developed that would ensure that only incremental action that increased the use of the resources received credit; and

''(C) the challenges of pricing the resources in a comparable manner between organized markets and vertically integrated markets, including options for the pricing.

''(3) COMPLEMENTARY POLICIES.—The report under paragraph (1) shall examine the benefits and challenges of using complementary policies or standards, other than the standard established under this section, to provide effective incentives for using the additional clean energy resources.

''(4) LEGISLATIVE RECOMMENDATIONS.—As part of the report under paragraph (1), the Secretary may provide legislative recommendations for changes to the standard established under this section or new complementary policies that would provide effective incentives for using the additional clean energy resources.

''(o) EXCLUSIONS.—This section does not apply to an electric utility located in the State of Alaska or Hawaii.

''(p) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary shall promulgate regulations to implement this section.

''SEC. 611. REPORT ON NATURAL GAS CONSERVATION.

''Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report that—

''(1) quantifies the losses of natural gas during the production and transportation of the natural gas; and

''(2) makes recommendations, as appropriate, for programs and policies to promote conservation of natural gas for beneficial use.''.

By Mr. BEGICH:

S. 2147. A bill to provide for research, monitoring, and observation of the Arctic Ocean and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BEGICH. Mr. President, I wish to speak about legislation I am introducing today aimed at providing a better understanding of the Arctic Ocean and its resources.

A changing climate is radically reshaping this part of the world. This change brings challenges and opportunities. As you may recall, nearly 3 years ago, I delivered my first speech to this body on the changing Arctic and what our Nation needs to do in order to prepare for it. That work continues today.

Retreating sea ice is leading to dramatic increases in shipping traffic of both goods and tourists. Our Nation's energy needs demand we investigate and responsibly produce the massive amounts of oil and gas found in the Chukchi and Beaufort Seas. These resources are now available due to retreating sea ice, the state of technology and the price of oil. Meanwhile, Native Alaskans have depended on and thrived for thousands of years because of the living resources of the Arctic Ocean.

In order to manage this change, we need a better understanding of the Arctic Ocean, and the legislation I am introducing today provides a firm foundation for that work. It establishes a new coherent research strategy to gather baseline information and to provide a holistic look at the Arctic Ocean.

Importantly, it doesn't create any new bureaucracy. It assigns this task to the North Pacific Research Board, a well regarded institution, and requires a high degree of coordination with other existing entities, including the Arctic Research Commission whose job it is to establish Arctic research priorities and coordinate the massive federal investment in this area across many agencies.

I would argue that most people are unaware of just how much Arctic science and research is underway. For most people in the lower 48 States, it is out-of-sight and out-of-mind. The Bureau of Ocean Energy Management has spent about half of its total research budget on the Arctic for the past 6 years, approximately $60 million. The National Science Foundation has spent more.

However, the Arctic Ocean Research, Monitoring, and Observing Act will be important to provide funds not tied to particular projects. This legislation is intended to provide a firm foundation in our understanding of the basic science of the Arctic Ocean that can underlie all of our decision-making in the Arctic.

I am always happy to inform my colleagues about how we do things right in Alaska. We're a natural resource development state. Because our economy is so dependent on that development, we bear the responsibility of doing it right. That is making sure that nonrenewable resource development doesn't harm the renewable resources of our great state.

I am confident we can continue to do that as we explore and develop the approximately 26 billion barrels of oil and 100 trillion cubic feet of natural gas in the Chukchi and Beaufort Seas. However, we have to make prudent investments in order to meet that goal, and that is what I am suggesting we do today.

With companion legislation I will be introducing in the next few days, I also have a plan to create an endowment to fund this critical research program. Baseline science and monitoring requires steady, dependable funding in order to have the long term data sets that can help us make good decisions. I look forward to working with my colleagues and the administration on this important need.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2147

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Arctic Ocean Research, Monitoring, and Observing Act of 2012''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is an Arctic Nation with—

(A) an approximately 700-mile border with the Arctic Ocean;

(B) more than 100,000,000 acres of land above the Arctic Circle; and

(C) an even broader area defined as Arctic by temperature, which includes the Bering Sea and Aleutian Islands.

(2) The Arctic region of the United States is home to an indigenous population that has subsisted for millennia on the abundance in marine mammals, fish, and wildlife, many of which are unique to the region.

(3) Temperatures in the United States Arctic region have warmed by 3 to 4 degrees Celsius over the past half-century, a rate of increase that is twice the global average.

(4) The Arctic ice pack is rapidly diminishing and thinning, and the National Oceanic and Atmospheric Administration estimates the Arctic Ocean may be ice free during summer months in as few as 30 years.

(5) Such changes to the Arctic region are having a significant impact on the indigenous people of the Arctic, their communities and ecosystems, as well as the marine mammals, fish, and wildlife upon which they depend.

(6) Such changes are opening new portions of the United States Arctic continental shelf to possible development for offshore oil and gas, commercial fishing, marine shipping, and tourism.

(7) Existing Federal research and science advisory programs focused on the environmental and socioeconomic impacts of a changing Arctic Ocean lack a cohesive, coordinated, and integrated approach and are not adequately coordinated with State, local, academic, and private-sector Arctic Ocean research programs.

(8) The lack of research integration and synthesis of findings of Arctic Ocean research has impeded the progress of the United States and international community in understanding climate change impacts and feedback mechanisms in the Arctic Ocean.

(9) An improved scientific understanding of the changing Arctic Ocean is critical to the development of appropriate and effective regional, national, and global climate change adaptation strategies.

(b) PURPOSE.—The purpose of this Act is to establish a permanent environmental sentinel program to conduct research, monitoring, and observation activities in the Arctic Ocean—

(1) to promote and sustain a productive and resilient marine, coastal, and estuarine ecosystem in the Arctic and the human uses of its natural resources through greater understanding of how the ecosystem works and monitoring and observation of its vital signs; and

(2) to track and evaluate the effectiveness of natural resource management in the Arctic in order to facilitate improved performance and adaptive management.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term ''Board'' means the North Pacific Research Board established under section 401(e) of the Department of the Interior and Related Agencies Appropriations Act, 1998 (Public Law 105–1608).

(2) COMMISSION.—The term ''Commission'' means the Arctic Research Commission established under the Arctic Research and Policy Act of 1984 (Public Law 98–373; 15 U.S.C. 4102).

(3) PROGRAM.—The term ''Program'' means the Arctic Ocean Research, Monitoring, and Observation Program established by section 4(a).

SEC. 4. ARCTIC OCEAN RESEARCH, MONITORING, AND OBSERVATION PROGRAM.

(a) ESTABLISHMENT.—There is established an Arctic Ocean Research, Monitoring, and Observation Program to be administered by the Board with input and assistance from the Commission.

(b) RESEARCH, MONITORING, AND OBSERVATION ACTIVITIES.—The Program shall be an integrated, long-term scientific research, monitoring, and observation program consisting of—

(1) marine, coastal, and estuarine research, including—

(A) fisheries research;

(B) research on the structure and function of the ecosystem and its food webs; and

(C) research on the spatial distributions and status of fish, wildlife, and other populations in the Arctic;

(2) marine, coastal, and estuarine ecosystem monitoring and observation, including expansion of the Alaska Ocean Observing System in the Arctic; and

(3) marine, coastal, and estuarine research, monitoring, observation, and modeling that supports planning, environmental review, decisionmaking, evaluation, impact and natural resources damage assessment, and adaptive management with respect to industrial and other human activities, such as shipping, in the Arctic, environmental change, and their interactive and cumulative effects in the Arctic.

(c) INITIAL PROJECTS.—In initiating the Program, the Board shall make grants under subsection (e)—

(1) to support research and monitoring of Arctic fisheries, including on the distributions and ecology of Arctic cod and other forage fishes, for a period of not less than 3 years;

(2) to support research and monitoring of Arctic marine mammals, including their responses to loss of sea ice habitats and reactions to disturbance, for a period of not less than 3 years; and

(3) to establish the Alaska Ocean Observing System in the Arctic Ocean such that it has sufficient capacity to provide comprehensive data, nowcasts and forecasts, and information products in real time and near real time on physical, chemical, and biological conditions and environmental change.

(d) ARCTIC OCEAN SCIENCE PLAN.—

(1) REQUIREMENT.—The Board and the Commission shall jointly prepare a comprehensive, integrated Arctic Ocean science plan.

(2) RECOGNITION AND COORDINATION WITH OTHER SCIENCE.—The content of the plan required by paragraph (1) shall be developed with recognition of and in coordination with other science plans and activities in the Arctic.

(3) INFORMED BY SYNTHESIS OF EXISTING KNOWLEDGE.—Development of the plan required by paragraph (1) shall be informed by a synthesis of existing knowledge about the Arctic ecosystem, including information about how the ecosystem functions, individual and cumulative sources of ecosystem stress, how the ecosystem is changing, and other relevant information.

(4) REVIEW.—

(A) INITIAL REVIEW BY NATIONAL RESEARCH COUNCIL.—The Board shall submit the initial plan required by paragraph (1) to the National Research Council for review.

(B) PERIODIC REVIEW AND UPDATES.—Not less frequently than once every 5 years thereafter, the Board and the Commission shall, in consultation with the National Research Council, review the plan required by paragraph (1) and update it as the Board and the Commission consider necessary.

(5) USE.—The Board shall use the plan required by paragraph (1) as a basis for setting priorities and awarding grants under subsection (e).

(e) GRANTS.—

(1) AUTHORITY.—Except as provided in paragraph (2), the Board shall, under the Program, award grants to carry out research, monitoring, and observation activities described in subsections (b) and (c).

(2) LIMITATION.—The North Pacific Research Board may not award any grants under paragraph (1) until the Board has prepared the plan required by subsection (d)(1).

(3) CONDITIONS, CONSIDERATIONS, AND PRIORITIES.—When making grants to carry out the research, monitoring, and observation activities described in subsections (b) and (c), the Board shall—

(A) consider institutions located in the Arctic and subarctic;

(B) place a priority on cooperative, integrated long-term projects, designed to address current or anticipated marine ecosystem or fishery or wildlife management information needs;

(C) give priority to fully establishing and operating the Alaska Ocean Observing System in the Arctic Ocean, which may include future support for cabled ocean observatories;

(D) recognize the value of local and traditional ecological knowledge, and, where appropriate, place a priority on research, monitoring, and observation projects that incorporate local and traditional ecological knowledge;

(E) ensure that research, monitoring, and observation data collected by grantees of the Program are made available to the public in a timely fashion, pursuant to national and international protocols; and

(F) give due consideration to the annual recommendations and review of the Commission carried out under subsection (f).

(f) ANNUAL RECOMMENDATIONS AND REVIEW BY ARCTIC RESEARCH COMMISSION.—Each year, the Commission shall—

(1) recommend ongoing and future research, monitoring, and observation priorities and strategies to be carried out pursuant to subsections (b) and (c);

(2) undertake a written review of ongoing and recently concluded research, monitoring, and observation activities undertaken pursuant to such subsections; and

(3) submit to the Board the recommendations required by paragraph (1) and the review required by paragraph (2).

By Ms. SNOWE:

S. 2150. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce valuable, bipartisan legislation that would codify the current policy of the Social Security Administration, SSA, to protect access to the Supplemental Security Income, SSI, program for those who prepay burial and funeral expenses.

When individuals are fiscally responsible, and plan ahead for their end-of-life costs, it makes no sense to penalize them. Under the current policy, if funds or life insurance are set aside, irrevocably—so the individual cannot take them back even if he or she wants to—then those resources do not count against the individual when determining whether or not they are eligible for SSI. This is a good policy, and I applaud the SSA for maintaining it.

Regrettably, this has not always been the case. When Congress passed anti-fraud legislation in 2000, the next year SSA misinterpreted provisions in the new law because it did not specifically carve out the exclusion for burial trusts. Therefore, SSA had the power to end the exclusion—and in fact, it did. SSA later realized its mistake and restored the exclusion. However, in the meantime, this hiccup created a wave of chaos for responsible seniors who were wrongly denied access to SSI. This bill will codify the exclusion, so this or future administrations will not even have the possibility of making that mistake again. In doing so, we will not only provide clarity to the administrative agencies, but will also give certainty to SSI enrollees and applicants. They will be ensured that planning ahead to protect their loved ones from the costs associated with death will in no way penalize them when applying for assistance.

We are all aware that Americans are facing difficult times with unacceptably high unemployment and an economy that continues to sag. That is why it is unfair to penalize individuals who are fiscally responsible; rather we should further encourage them to plan ahead. This is not a loophole or a giveaway; this is current policy at SSA, and remember that this exclusion is only for funds or insurance that are absolutely going to be spent on burial costs. They are called ''irrevocable trusts'' because once you put the money aside, you cannot get it back. This bill has negligible revenue effect, because it merely tells the government, firmly, to keep doing what it is already doing.

I should also point to the fact that we are talking about SSI enrollees—individuals who generally do not have a lot of resources. If they are fiscally responsible and plan ahead for their burial and funeral costs, this reduces the likelihood of these costs falling on the obligation of State and local governments.

I know that we want agencies like SSA to be able to use their discretion and be nimble enough to adapt to a changing environment. However, we have gone that route before, and because of the SSA's mistake in reversing the exclusion in 2001, we need to be absolutely clear about the intent of Congress on this policy. It is unconscionable for seniors to have their applications erroneously delayed or denied, and it is incumbent upon us to enact this simple, straightforward, uncontroversial fix.

Americans sacrifice a portion of every paycheck in order to support the programs SSA administers. They do so willingly, knowing that when they retire, or should they become disabled or fall on hard times during old age, programs like SSI will be there for them. This is a promise that we in Congress made to Americans. Enacting this fix is part of keeping that promise.

As a senior member of the Senate Finance Committee, I worked with SSA in developing this language. Many members have expressed support both for this legislation, and for the underlying policy that it codifies. I urge my colleagues to support enactment of this bill, so that we can keep our promise to the Nation's seniors, provide certainty, and reward fiscal responsibility and prudent planning.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2150

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

SECTION 1. CERTAIN FUNERAL AND BURIAL ARRANGEMENTS NOT CONSIDERED RESOURCES.

(a) IN GENERAL.—Section 1613(d) of the Social Security Act (42 U.S.C. 1382b(d)) is amended—

(1) in paragraph (2)(B), by inserting '', including a trust or arrangement described in paragraph (5)'' after ''irrevocable arrangement''; and

(2) by adding at the end the following:

''(5) If—

''(A) an individual or the individual's spouse enters into an irrevocable contract with a provider of funeral goods and services for a funeral; and

''(B) the individual or the individual's spouse funds the contract by—

''(i) prepaying for the goods and services and the funeral provider places the funds in a trust;

''(ii) establishing an irrevocable trust fully funding the goods and services and the funeral provider is the named beneficiary of the trust, or

''(iii) purchasing a life insurance policy that provides benefits to pay for the goods and services and irrevocably assigning such benefits to—

''(I) the funeral provider; or

''(II) an irrevocable trust fully funding the goods and services and the funeral provider is the named beneficiary of the trust,

then the irrevocable contract and the funding arrangement for the irrevocable contract shall not be considered a resource available to the individual or the individual's spouse.''.

(b) CONFORMING AMENDMENT.—Section 1613(e)(3)(B) of such Act (42 U.S.C. 1382b(e)(3)(B)) is amended by striking ''In the case of an irrevocable trust established by an individual, if there are any circumstances under which payment from the trust'' and inserting ''Except as provided in subsection (d)(5)(B)(ii), if there are any circumstances under which payment from an irrevocable trust established by an individual''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments for supplemental security income benefits under title XVI of the Social Security Act for months beginning on or after the date of enactment of this Act.

By Mr. MCCAIN (for himself, Mrs. HUTCHISON, Mr. CHAMBLISS, Mr. GRASSLEY, Ms. MURKOWSKI, Mr. COATS, Mr. BURR, and Mr. JOHNSON of Wisconsin):

S. 2151. A bill to improve information security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I come to the floor today to introduce the Strengthening and Enhancing Cybersecurity by Using Research, Education, Information and Technology Act, also known as the SECURE IT Act. I am joined today by Senator HUTCHISON, Senator CHAMBLISS, Senator GRASSLEY, Senator MURKOWSKI, Senator COATS, Senator BURR, and Senator JOHNSON of Wisconsin. My colleagues and I believe that passage of this act would be a significant step towards improving our Nation's cyber defenses.

It is clear to most policy makers that the Internet has transformed nearly all aspects of our lives by breaking down barriers and increasing information efficiencies. Whether you are a student searching for an article to complete a homework assignment or a fireman trying to remotely determine the landscape of a forest to safely extinguish a fire, the Internet has improved our lives because it has so greatly transformed how and when we are able to access information.

While progress is clear, not a week goes by without fresh media reports of a major compromise of a cyber network in the United States. A recent report by the Government Accountability Office stated that cyber attacks against the United States are up 650 percent over the last 5 years, and according to one leading cybersecurity firm, the annual cost of cyber crime itself is nearly $388 billion. That cost is close to the sum of all of the profits of the top 75 Fortune 500 firms for 2011. My friends, if the top 75 American businesses lost all of their profits in one year, we would be working night and day to solve the problem.

Most of us don't need an analogy like that to appreciate the need to improve the current state of cybersecurity in this country. But the reality is that advancing much needed legislation has been extremely difficult. I will be the first to admit there are honest differences within the cybersecurity debate. However, over the course of the last few years, several cybersecurity solutions have been brought forth that I believe can be advanced and offer insight as to where progress can be achieved. These solutions are not insignificant and their passage would do plenty to improve our country's cybersecurity defenses. I believe that inaction is no longer an option. The stakes are too high and the threat is too real.

The SECURE IT Act is a serious response to the growing cyber threat facing our country. Our bill seeks to utilize the world-class engineers employed by our private sector, not compliance attorneys in billable by the hour law firms. This is why a primary objective of our bill is to enter into a cooperative information sharing relationship with the private sector, rather than an adversarial one rooted in prescriptive Federal regulations used to dictate technological solutions to industry.

The centerpiece of the SECURE IT Act is a legal framework to provide for voluntary information sharing. Our bill provides specific authorities relating to the voluntary sharing of cyber threat information among private entities, between a private entity and a non-federal government agency such as a local government, and between any entity and a pre-existing Federal cybersecurity center. In setting forth our information sharing framework, we do not create any new bureaucracy.

Further, the SECURE IT Act includes no government monitoring, no government take-overs of the Internet, and no government intrusions. There are plenty of laws that deal with those issues—this bill is not one of them. The goal of the information sharing title is to remove the legal hurdles which prevent critical information from being shared with those who need it most.

In drafting the information sharing title of our bill, my colleagues and I were very sensitive to the issue of privacy and we worked very hard to put forth understandable privacy protections. First, we limit the type of information involved in information sharing

to ''cyber threat information'' as it is narrowly defined in the bill. There are no legal protections for entities using, receiving, or sharing information that falls outside that narrow ''cyber threat information'' definition. Second, we include techniques like information anonymizing and specifically state that entities can restrict the further dissemination of shared information. Additionally, after the first year, and then every other year, we will receive reports from the Privacy and Civil Liberties Oversight Board which will tell us how these authorities are being implemented. We take the issue of privacy very seriously.

In addition to information sharing, the SECURE IT Act requires the Federal Government to improve its own cybersecurity by reforming the Federal Information Security Management Act—the law that governs federal networks. These updates are meant to ensure that the Federal Government transitions from paper-based reporting on network security to real-time monitoring—a huge step in federal cybersecurity which will go a long way to improve how the government addresses its own cyber threats. This transition from a checklist approach to continuous monitoring will not happen without an associated cost. However, we believe our approach to this necessary improvement is the most fiscally responsible because we require agencies to meet these requirements by using existing budgets, rather than by authorizing new federal spending.

We are all aware that federal government also plays a critical role in cybersecurity research. The Defense Advanced Research Projects Agency, the Department of Energy laboratories and the National Science Foundation are all world-class leaders in research that is essential to understanding how to best protect our cyber country's infrastructure. This work serves an important purpose and should be a Federal priority even in a time of significant budget constraints. However, the significance of these programs does not provide us with an excuse to authorize new spending or establish new programs. The SECURE IT Act ignores this temptation and does not authorize new spending or programs.

Finally, our cybersecurity bill updates our nation's criminal laws to account for new cyber crimes and assists the Department of Justice to prosecute cyber criminals.

In sum, it is our belief that the provisions included in the SECURE IT Act will dramatically improve cybersecurity in this country. More importantly, the approach taken in the SECURE IT Act has a real chance of being enacted into law this year. This is real progress that will impact nearly all Americans. After all, we are all in this fight together, and as we search for solutions, our first goal should be to move forward together.

Mrs. HUTCHISON. Mr. President, I rise to talk about a bill that was introduced this morning. The bill is the Strengthening and Enhancing Cybersecurity by Using Research, Education, Information, and Technology Act, which we refer to as the SECURE IT Act.

This is a very important piece of legislation because we know that cyber attacks are a threat to our country and we need to strengthen our laws to ensure we are protecting our assets, our communication systems, and all of the infrastructure that is run by communications systems.

We are working as a group. Senators MCCAIN, CHAMBLISS, GRASSLEY, MURKOWSKI, COATS, BURR, and JOHNSON are original cosponsors. All of us are the ranking members on the relevant committees that must deal with cybersecurity.

Senator MCCAIN, the lead sponsor, is, of course, the Armed Services ranking member. I am the ranking member of Commerce, Senator CHAMBLISS of Intelligence, Senator GRASSLEY certainly of Judiciary, and Senator MURKOWSKI of Energy.

It is very important that our relevant committees have come together with our ranking members, and we hope very much to gain support from the Democratic side as well on a bill that we think can get through all of Congress and be signed by the President because the parts of our bill that will strengthen our cybersecurity in this country are, I think, accepted by those who have expertise in this area. For instance, our bill will help prevent the spread of cyber attacks from network to network and across the Internet by removing barriers to sharing information about threats, attacks, and strategies for improvement of defenses. We remove these barriers through addressing the antitrust laws that would allow companies that are sharing information not to be threatened with antitrust suits, because this is a security issue, it is not a competitive issue. Secondly, we want to have liability protection for those who disclose cyber threat information with their peers.

These are things that would be in everyone's interest for us to do, and we do need to address them in legislation. The liability and antitrust protections are available to all companies that would share information, not just those that share with the government but when they can talk to each other, to understand each other's systems.

Further, the SECURE IT Act would require that Federal contractors providing electronic communication or cybersecurity services to Federal agencies share cyber threat information related to those contracts. Of course, when they have contracts with the government, that information is going to be very important so we would require the sharing of information about threats that might jeopardize the system's security.

In addition, the government will develop procedures for the timely sharing of classified, declassified, and unclassified information to ensure that information needed to secure networks is fully accessible to trusted parties.

We are concerned that there are other bills out there that will add another new bureaucracy, another layer of regulation that is not necessary and brings in another agency that would overlay the security agencies that already have systems in place. It would also allow the regulatory bodies for certain areas of interest to handle the cybersecurity rather than another overlay of a new department.

I think so many people in our country who are in business feel they are overwhelmed with duplicative regulations and different agencies they have to report to. We want to streamline whom they have to report to and try to use existing structures and existing regulatory authorities to deal with each individual company or industry so that we don't have to give them yet another new bureaucracy that would then have regulations, if they are deemed to be critical infrastructure. That is when it becomes the regulatory threat.

We believe the private sector is more aware of individual security needs and better equipped than the Department of Homeland Security to secure its own networks, working with its own regulators. According to the Office of Management and Budget, the government itself has had great difficulty in preventing attacks on Federal systems. So we do require that the reporting of Federal contractors go to the Federal security agencies, but we don't think the Federal agencies being in charge of everything is necessarily an improvement.

We want to make sure the Federal Information Security Management Act, which is the law, is actually updated so that the new forms of cyber threats are accommodated in FISMA, the Federal Information Security Management Act, and to strengthen that with the updates.

The legislation also updates the Criminal Code to address cyber crimes, strengthening penalties, improving the Department of Justice's ability to prosecute this kind of criminal who would take down whole systems of our government.

Our bill will prioritize cybersecurity research and development so we can harness innovation to protect our country and our private industries from cyber attacks.

I am very pleased that we have been able to introduce this legislation as an alternative to some of the other bills that have come out. I believe that if we can go forward with negotiating, perhaps we can come to an accommodation with the bills that have been introduced with other sponsors. But we don't think the bills that have been introduced address our concerns and we want to ensure that we do not have another big Federal bureaucracy, that we do not overlay the regulators who already have expertise in this area with new regulators whom we have to train

and deal with. We think the defense agencies—the National Security Agency, the Defense Intelligence Agency, the CIA, DHS—all of those with their cybersecurity assets already in place are the better place to put the strength, not reinventing the wheel but better utilizing the systems we already have.

I think it is time for our Senate to address cyber security. I think we have good proposals out there; perhaps we can take the best of those. I think this is the right approach, and Senators MCCAIN, CHAMBLISS, GRASSLEY, and MURKOWSKI were key to drafting this legislation that I think will get the support of all of the stakeholders, as well as the House of Representatives, to actually pass a bill to improve our systems and take it to the President for signature.

Mr. CHAMBLISS. Mr. President, I rise today to speak in support of the Strengthening and Enhancing Cybersecurity by Using Research, Information, and Technology Act of 2012, otherwise known as the SECURE IT Act. This bill provides a strong foundation for Congress to enact what I hope can be a truly bipartisan approach for improving the ability of all Americans to protect themselves against the ever-increasing cybersecurity threat.

This bill was dropped today under the leadership of Senator MCCAIN, Senator HUTCHISON, Senator GRASSLEY, Senator MURKOWSKI, and myself, and I am very pleased to be a part of that group who has worked very hard on this bill for a number of months.

There are a few who dispute the significance of the problem posed by the threat of cyber attacks. The financial harm inflicted by these attacks is now costing Americans billions of dollars each year. Denial-of-service attacks have been shutting down the Internet presence of business and organizations for years. Beyond the economic costs, malicious cyber activity is damaging our national security. Every day, cyber criminals and foreign adversaries steal large amounts of sensitive information from the networks of government and private sector entities. These trends need to be reversed before these malicious activities are measured in terms of lives lost rather than in terms of dollars as we are seeing today.

For years the Senate Intelligence Committee has been following the growing cybersecurity threats. Early on, one of the most common questions asked in the cybersecurity context was, Who is in charge? While this seems like the natural place to start, it is important to understand why this is really not the right question.

First, there is no consensus on who should be in charge. Some have argued it should be the Department of Defense. Some say it should be the Department of Homeland Security. Others think it might be best to start from scratch. All of these options have very obvious drawbacks.

Second, and more important, we have been looking through the wrong end of the telescope in trying to answer this question. Rather than trying to find a governmental entity that should be in charge of cybersecurity, it turns out that the answer is actually much simpler: each and every one of us is in charge of our own cybersecurity. I know some people will scoff at this answer because it is too simplistic for such a complicated problem or they just don't trust us to act in our own best interests. I think they are wrong on both counts.

So, if we—and by ''we,'' I mean all of us who use and rely on computer networks, whether individuals, groups, organizations, corporations, or government agencies—are in charge of our own cybersecurity, the real question then is, What should be done to reduce the threat of malicious cyber activity? I believe the answer to that question is contained in the bill called the SECURE IT Act that we have filed today.

The SECURE IT Act consists of four key areas of common ground identified in various legislative efforts: first, information sharing; second, Federal Information Security Management Act reform; third, enhanced criminal penalties; and fourth, cybersecurity research and development.

We have seen firsthand the positive impact better information sharing can have on our national security. Since the 9/11 terrorist attack, improved information sharing throughout the government and especially within the intelligence community has greatly enhanced our national security. I believe a similar improvement to information sharing in the cyber context will pay huge, long-term dividends in terms of our safety and national security.

Once there is an understanding that information sharing will work best if it empowers the individual rather than a discrete government entity, the move from a regulatory approach to one that encourages voluntary sharing of cyber threat information by removing unintended barriers quickly follows. The information-sharing title of the SECURE IT Act is based on this voluntary approach and on the principle that government cannot and should not solve every problem.

The cosponsors of this bill relied upon a number of principles and practical considerations to develop the information-sharing provisions in this bill.

First, private sector innovation is the engine that drives our economy. Private sector entities have a vested interest in protecting their assets, businesses, and investments. What they often lack is information to help them better protect themselves. Therefore, our information-sharing provision authorizes private sector entities and non-Federal Government agencies to voluntarily disclose cyber threat information to government and private sector entities. The only time cyber threat information must be shared with the government is when it is directly related to a contract between a communications service provider and the government, which ordinarily is a term included in that contract anyway. The only new requirement is that such information will ultimately need to be shared with a cybersecurity center.

Information sharing is and must be a two-way street, but there are no quid pro quos here. Because the government often sees different threat pictures than the private sector, our bill also encourages the government to immediately share more classified, declassified, and unclassified cyber threat information. As one example, consider how improved information sharing might safeguard transportation industry systems. Suppose a commercial airline company detects a virus in their reservation system. The virus is stealing information, including customers' credit card numbers, and sending it to a hacker's server overseas. The airline, after investigating internally, determines where the stolen data is being sent. Under our bill, the airline may share the Internet address that is receiving the stolen credit card information with any other companies, such as other airlines, as well as with the government. With this warning from the first airline, other transportation companies can check their systems to see if any of their data is being sent to the hacker's server. Moreover, using the hacker's Internet address, law enforcement is able to begin an investigation to identify other victims of the same hacker.

The cybersecurity centers will also be able to notify private entities of the nature of this particular threat. In this example, it is unlikely that the airline will ever need to share or release any customer's personally identifiable information.

Second, my cosponsors and I intentionally omitted a critical infrastructure title because we believe a top-down regulatory approach will stifle the voluntary sharing of cyber threat information by the private sector. Consistent with this principle, our information-sharing title does not provide any additional authority to any government entity to impose new regulations on the private sector. In fact, the bill prohibits government agencies from using any shared cyber threat information to regulate the lawful activities of an entity. In short, the bill leaves the existing regulatory regime unchanged.

The real difficulty with trying to regulate in this area is that malicious cyber activities occur in real time and are constantly changing. The bureaucracy-driven regulatory process is simply not nimble enough to keep up with the leading cybersecurity practices. Another disadvantage to a regulatory approach is that it gives hackers insight into existing cybersecurity performance requirements and, as a result, potential vulnerabilities. As industry representatives have told us, this could actually make us less safe, not more safe.

Thirdly, our bill does not create any new bureaucracy to facilitate the sharing of cyber threat information. Rather, it relies upon the existing cybersecurity centers and gives private entities the flexibility to share their cyber threat information with any cyber center. To ensure thorough dissemination within the government, each cybersecurity center is required to pass on to other centers any cyber threat information it receives from an entity. Ultimately, we expect that our current decentralized cybersecurity center structure will be energized by an increase in shared cyber threat information. We also think these centers, with their ongoing relationships with many private entities, provide a more robust and secure environment for information sharing than creating new cybersecurity exchanges or a new national center.

Another advantage of our ''no new regulatory authorities'' and ''no new bureaucracy'' approach is it is also a ''no new spending'' approach. Our bill does not authorize any new spending, which is particularly important given our current economic situation.

Fourth, our bill contains clear and unconditional protection from civil and criminal liability for entities that rely upon the authorities in the information-sharing title. Specifically, a private entity cannot be sued or prosecuted for using lawful countermeasures and cybersecurity systems to defend its networks and identify threats. In addition, neither a private entity nor a Federal Government entity can be sued or prosecuted for using, disclosing, or receiving cyber threat information or for the subsequent action or inaction by an entity to which they gave cyber threat information.

These clear liability protections are necessary to encourage robust information sharing. If they are watered down or made conditional on sharing with the government, private sector lawyers will likely discourage their clients from sharing cyber threat information and, at a minimum, sharing will be delayed while lawyers have to be consulted.

The final practical consideration that governed the drafting of our information-sharing title was to provide sensible safeguards for the protection of personal privacy. We accomplished this in a number of ways.

This information-sharing title is focused on the sharing of only ''cyber threat information.'' It is a key definition in the bill. If you study it carefully, you will see it is limited primarily to information related to malicious cyber activities. There is no authorization or liability protection for using, sharing, or receiving information that falls outside of this definition. Nor can private entities use their cybersecurity systems to get information that falls outside this definition. Moreover, it helps to remember that people engaged in malicious cyber activities are essentially trespassers who have no standing to assert privacy interests.

Besides this relatively narrow definition of ''cyber threat information,'' there is an additional privacy mechanism that limits the collection and disclosure of cyber threat information for the purpose of preventing, investigating, or mitigating threats to information security. In other words, if what you are doing is not for these purposes, then you cannot do it under this bill.

Another way this bill protects privacy is by requiring the government to handle all cyber threat information in a reasonable manner that considers the need to protect privacy and allows the use of anonymizing information.

Since information sharing is voluntary under our bill, private sector entities can take any steps to protect their own privacy interests and the privacy of their customers. Moreover, our bill allows private sector entities to require the recipients of their cyber threat information to seek their consent before further disseminating the information.

Finally, Congress will be able to conduct its oversight since our bill requires an implementation report to Congress within 1 year of enactment, with follow-on reports every 2 years thereafter. These reports will give Congress detailed insight into a number of areas, including the degree to which privacy may be impacted by the provisions in this title.

Now that I have identified the key components and advantages of our approach to information sharing, let me explain why we were compelled to draft this separate bill.

All of the cosponsors of the SECURE IT Act agree with Senators LIEBERMAN and COLLINS and the White House that Congress needs to address the cybersecurity threat. When we attempted to participate in the cyber working groups, it became clear pretty early on that it was going to be difficult to come up with a consensus product.

My experience with working on bipartisan bills such as the Intelligence Authorization Act is that we generally start from scratch and only put in those provisions that are agreed to by both sides. If a provision receives an objection, it is not included, but it is understood it may be an amendment during markup or on the floor. This approach always gives us a great starting point that enjoys the overwhelming support of both sides.

Since the working group process had essentially reached an impasse on the issue of critical infrastructure regulation and how best to promote information sharing, the cosponsors of the SECURE IT Act joined together to develop a bill that would cover ''common ground'' and could serve as a better starting point for negotiations. We have listened to all sides in putting this bill together—government, industry, private groups, cybersecurity experts, and our colleagues on both sides of the aisle in both the Senate and the House. There should be nothing surprising in our bill. Our ranking member group has been telegraphing our priorities for months now.

If we are serious about passing cybersecurity legislation in this Congress—and I hope we are—we should be working together to pass a bill with the support of a large group of Senators far in excess of the 60 we need, as we have done in the past on many major pieces of legislation. I believe the ''common ground'' approach of the SECURE IT Act puts us on a clear path to reaching this goal.

This is important national security legislation. Fortunately, Leaders REID and MCCONNELL have an outstanding record of garnering overwhelming bipartisan support for national security legislation, and I am confident they will seek to do so again. I look forward to continuing these discussions and getting a strong bipartisan bill signed into law.

Ms. MURKOWSKI. Mr. President, I come to the floor today to speak about cybersecurity legislation—legislation we hope will soon be before the Senate.

There is no question—no question at all—that this is a critical issue that should be addressed by this Congress, and I am certain that every Member of this body is concerned that our Nation may be vulnerable to cyber-attacks that could truly have very severe economic and security ramifications. We see stories about cyber-attacks daily—whether they are attacks on individuals, on companies, on government—and I believe it is time for us to take steps to protect ourselves against this emerging threat.

In the coming weeks, the Senate is expected to take up legislation to address this very real problem, and I am hopeful this effort will result in legislation we can all agree is worthy of sending to the President. But right now it appears we are on track to follow an all-or-nothing approach. The problem I see with the bill that is expected to come to the floor—featuring text that was recently released by the Homeland Security and Governmental Affairs Committee—is that it has not gone through regular order and, I fear, amounts to regulatory overreach. If that is our only option here, it will ultimately prevent us from making progress on cybersecurity here in Congress, which I think would be an unfortunate outcome.

Because that outcome is unacceptable, I have introduced an alternative bill this morning, along with a number of ranking member colleagues. I know Senator CHAMBLISS from Georgia was here on the floor earlier, and many of us spoke to it earlier in the day. We call our bill the Strengthening and Enhancing Cybersecurity by Using Research, Education, Information, and Technology Act of 2012. It has an acronym, of course. It is called SECURE IT for short. The bill follows a commonsense approach to address our ever-increasing cyber threats.

Our bill focuses on four different areas we believe can draw bipartisan

support and result in good public law. Those four areas are: information sharing, FISMA reform—which is intelligence-sharing reform—criminal penalties, as well as additional research.

What the SECURE IT bill does not do is equally important, because it does not simply add new layers of bureaucracy and regulation that will serve little purpose and achieve meager results. The Homeland Security and Governmental Affairs Committee bill would arm the Department of Homeland Security with expansive new authorities to review all sectors of our economy and designate what is termed ''covered critical infrastructure'' for further regulation. What we hear out there from industry is that this amounts to regulation almost for regulation's sake. In the electricity industry's case, this is resulting in duplicative regulation that I am afraid will lead to a ''compliance first'' mentality. Companies will focus on meeting their new Federal requirements and passing a seemingly endless stream of audits, but these heavy-handed statistic requirements from yet one more Federal regulator will not necessarily address the very real threats we face. So again, the concern is we will have industry focused on how do we comply, how do we avoid a bad audit, instead of using their ingenuity and their resources to ensure we stay ahead of any future cyber-attack. We need to be more nimble. We have to have a more nimble approach to dealing with cyber-related threats that are constantly growing and constantly changing. The threat we see today is not necessarily the threat we might anticipate tomorrow, so we have to stay ahead of the game. This is important, and this is where our SECURE IT bill comes in. I think we have simply taken a more pragmatic approach by focusing on the areas where we know we can find some bipartisan support.

One area I think we can all agree on is that the Federal Government needs to form a partnership with the private sector. We share the same goals, that is clear. The goals are to keep our computer systems and our Nation safe from cyber intrusions. We need the private companies to be talking with each other and with the government about the cyber problems they face as well as the potential strategies and the solutions to combat them. To achieve this goal, our legislation encourages the voluntary sharing of much needed information by removing legal barriers to its use and its disclosure. At the same time, we are very careful to safeguard the privacy and prohibit information from being used for competitive advantage.

Our bill also provides necessary updates to the Federal Information Security Management Act. This is the FISMA I spoke to a minute ago. These FISMA reforms require real-time monitoring of Federal systems. It will modernize the way the government manages and mitigates its own cyber risks. And unlike other legislation on this subject, the cyber bill we have introduced today will update criminal statutes to account for cyber activities. Finally, we support advanced cybersecurity research by leveraging existing resources without necessarily spending new Federal dollars. That is very important for us.

This straightforward approach to cybersecurity, I think, can go a long way in tackling the problem. Clearly, our own government agencies here need to be communicating a little bit better with one another. An example of this is that the White House and Department of Homeland Security are staging an exercise next week. All Members have been invited to attend and go through this exercise. It is a mock scenario that will feature a cyber-attack on the Nation's grid. And while I absolutely think this is a useful exercise, and something that is well worthwhile, I do find it quite surprising—quite surprising—that DHS would set up a grid attack scenario and fail to include the grid's primary regulators. These would be the electric reliability organization—what we call NERC—and the Federal Energy Regulatory Commission, or FERC. These are the two regulatory agencies currently in place that provide for that cyber regulation. It is mandated within our grid that these agencies tend to just this issue. So it does make me question if DHS is even aware the electric industry is the only industry already subject to mandatory cyber standards, or that the NERC has the ability to issue time-sensitive alerts to electric utilities in the event of emergency situations. It is kind of hard for me to understand why DHS would proceed with a grid attack simulation and not include the existing governmental entities that already have these safeguards in place. It also begs the question as to whether Congress should provide DHS with such significant and expansive new authorities in the cyber arena.

Before I close, I wish to take a moment to talk about the process behind cybersecurity legislation. While my colleagues and I have highlighted the substantive and procedural problems that are associated with the Homeland Security and Governmental Affairs Committee bill, the majority, and even the press, have attempted to dismiss our arguments as nothing more than partisan stall tactics.

I stand before you to tell you that is simply not true. I want to take action on cyber. I know all of the ranking members who have joined together on this issue want to take action on cyber. We need to do it. I have been calling for action and for legislation since last Congress. We have been working on it in the Energy Committee and have moved out that cyber energy piece. But I do think it is important around this body that there is some meaning to the process; that process really does matter. That is how strong, bipartisan pieces of legislation are enacted. When we forego that process and refuse to do the hard work in the committee—and it is hard. But if we don't do that, we put ourselves on a path to failure with that legislation.

So when we have seven ranking members taking issue with how a bill has been put together, I think we had better pay attention. I think we need to look at whether our process is working.

The SECURE IT bill we introduced today is a strong starting point for us. Some may argue we need to go a little further. But additional layers of bureaucracy and regulations are not the answer at this time. Legislating in the four areas we have highlights—in the information sharing, the FISMA reform, criminal penalties, and research—these are necessary first steps that will make a tremendous amount of difference. If we need to do more in the future, we in Congress can certainly make that determination. But let's not take an all-or-nothing approach to cyber legislation and ultimately end up empty-handed.

I ask my colleagues to take a look at what we have presented today and consider supporting the SECURE IT Act so we can continue to ensure our citizens, our companies, and our country are protected.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 385—CONDEMNING THE GOVERNMENT OF IRAN FOR ITS CONTINUED PERSECUTION, IMPRISONMENT, AND SENTENCING OF YOUCEF NADARKHANI ON THE CHARGE OF APOSTASY

Mr. VITTER (for himself, Mr. RUBIO, Mr. HOEVEN, Mr. DEMINT, Mr. KIRK, Mr. BLUNT, and Mr. HATCH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 385

Whereas the United Nations Universal Declaration of Human Rights, adopted at Paris December 10, 1948, and the International Covenant on Civil and Political Rights, adopted at New York December 16, 1966, recognize that every individual has ''the right to freedom of thought, conscience and religion'', which includes the ''freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance'';

Whereas Iran is a member of the United Nations and signatory to both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

Whereas the United Nations Special Rapporteur on the situation of human rights in Iran has reported that religious minorities, including Nematullahi Sufi Muslims, Sunnis, Baha'is, and Christians, face human rights violations in Iran;

Whereas, in recent years, there has been a significant increase in the number of incidents of authorities in Iran raiding religious services, detaining worshipers and religious leaders, and harassing and threatening members of religious minorities;

Whereas the United Nations Special Rapporteur on the situation of human rights

in Iran has reported that intelligence officials in Iran are known to threaten Christian converts with arrest and apostasy charges if they do not return to Islam;

Whereas the Department of State's most recent report on International Religious Freedom, released on September 13, 2011, states that Iran's ''laws and policies severely restrict freedom of religion,'' and notes ''government imprisonment, harassment, intimidation, and discrimination based on religious beliefs'' including ''death sentences for apostasy or evangelism'';

Whereas, in October 2009, Youcef Nadarkhani, an Iranian Christian, protested an Iranian law that would impose Islam on his Christian children;

Whereas, in September 2010, a court in Iran accused Youcef Nadarkhani of abandoning the Islamic faith of his ancestors and condemned him to death for apostasy;

Whereas the court sentenced Youcef Nadarkhani to death by hanging;

Whereas, on December 5, 2010, Youcef Nadarkhani appealed his conviction and sentence to the Supreme Revolutionary Court in Qom, Iran, and the court held that if it could be proven that he was a practicing Muslim in adulthood, his death sentence should be carried out unless he recants his Christian faith and adopts Islam;

Whereas, from September 25 to September 28, 2011, a court in Iran held hearings to determine if Youcef Nadarkhani was a practicing Muslim in adulthood and held that he had abandoned the faith of his ancestors and must be sentenced to death if he does not recant his faith;

Whereas, on numerous occasions, the judiciary of Iran offered to commute Youcef Nadarkhani's sentence if he would recant his faith;

Whereas numerous Government of Iran officials have attempted to coerce Youcef Nadarkhani to recant his Christian faith and accept Islam in exchange for his freedom;

Whereas Youcef Nadarkhani continues to refuse to recant his faith;

Whereas the Government of Iran continues to indefinitely imprison Youcef Nadarkhani for choosing to practice Christianity; and

Whereas the United Nations Special Rapporteur on the situation of human rights in Iran has reported that, at the time of his report, on October 19, 2011, the Government of Iran had secretly executed 146 people during that calendar year, and in 2010, the Government of Iran secretly executed more than 300 people: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the Government of Iran for its ongoing and systemic violations of the human rights of the people of Iran, including the state-sponsored persecution of religious minorities in Iran, and its continued failure to uphold its international obligations, including with respect to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

(2) calls for the Government of Iran to exonerate and immediately and unconditionally release Youcef Nadarkhani and all other individuals held or charged on account of their religious or political beliefs;

(3) calls on the President to designate additional Iranian officials, as appropriate, for human rights abuses pursuant to section 105 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8514); and

(4) reaffirms that freedom of religious belief and practice is a universal human right and a fundamental individual freedom that every government must protect and must never abridge.

SENATE RESOLUTION 386—CALLING FOR FREE AND FAIR ELECTIONS IN IRAN, AND FOR OTHER PURPOSES

Mr. HOEVEN (for himself, Mr. BLUMENTHAL, Mr. LIEBERMAN, Mr. GRAHAM, Mr. MCCAIN, Mr. BEGICH, Mr. SESSIONS, Mr. NELSON of Nebraska, Ms. AYOTTE, Mr. COONS, Mr. MCCONNELL, Ms. MIKULSKI, Mr. CORNYN, Mr. SCHUMER, Mr. THUNE, Mrs. SHAHEEN, Mr. ALEXANDER, Mrs. GILLIBRAND, Mr. RISCH, Mr. BROWN of Ohio, Mr. CHAMBLISS, Mr. MENENDEZ, Mr. BLUNT, Mrs. MCCASKILL, Ms. COLLINS, Mr. NELSON of Florida, Mr. ISAKSON, Mr. LAUTENBERG, Mr. BARRASSO, Mr. PRYOR, Mr. COATS, Mrs. FEINSTEIN, Mr. COBURN, Mr. UDALL of Colorado, Mr. JOHNSON of Wisconsin, Mr. CASEY, Mr. CRAPO, Mr. BENNET, Mr. GRASSLEY, Mr. WYDEN, Mr. HELLER, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LEE, Mr. PORTMAN, Mr. TOOMEY, Mr. WICKER, Mr. SHELBY, Mr. VITTER, Mr. BURR, Mr. BOOZMAN, Mr. BROWN of Massachusetts, Ms. SNOWE, Mr. ROBERTS, Mr. COCHRAN, Mr. HATCH, Mr. MORAN, Ms. MURKOWSKI, Mr. RUBIO, Mr. JOHANNS, Mr. KOHL, Mr. DURBIN, Mr. FRANKEN, Mr. CONRAD, Ms. KLOBUCHAR, and Mr. ENZI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 386

Whereas democracy, human rights, and civil liberties are universal values and fundamental principles of United States foreign policy;

Whereas an essential element of democratic self-government is for leaders to be chosen and regularly held accountable through elections that are organized and conducted in a manner that is free, fair, inclusive, and consistent with international standards;

Whereas governments whose power does not derive from free and fair elections lack democratic legitimacy;

Whereas the Government of the Islamic Republic of Iran is a signatory to the United Nations International Covenant on Civil and Political Rights, adopted December 16, 1966 (ICCPR), which states that every citizen has the right to vote ''at genuine periodic elections'' that reflect ''the free expression of the will of the electors'';

Whereas the Government of the Islamic Republic of Iran regularly violates its obligations under the ICCPR, holding elections that are neither free nor fair nor consistent with international standards;

Whereas elections in Iran are marred by the disqualification of candidates based on their political views; the absence of credible international observers; severe restrictions on freedom of expression, assembly, and association, including censorship, surveillance, and disruptions in telecommunications, and the absence of a free media; widespread intimidation and repression of candidates, political parties, and citizens; and systemic electoral fraud and manipulation;

Whereas the last nationwide election held in Iran, on June 12, 2009, was widely condemned inside Iran and throughout the world as neither free nor fair and provoked large-scale peaceful protests throughout Iran;

Whereas, following the June 12, 2009, election, the Government of the Islamic Republic of Iran responded to peaceful protests with a large-scale campaign of politically motivated violence, intimidation, and repression, including acts of torture, cruel and degrading treatment in detention, rape, executions, extrajudicial killings, and indefinite detention;

Whereas, on December 26, 2011, the United Nations General Assembly passed a resolution denouncing the serious human rights abuses occurring in the Islamic Republic of Iran;

Whereas authorities in Iran continue to hold several candidates from the 2009 election in indefinite detention;

Whereas authorities in Iran have announced that nationwide parliamentary elections will be held on March 2, 2012;

Whereas the Government of the Islamic Republic of Iran has banned more than 2,200 candidates from participating in the March 2, 2012, elections, including current members of parliament;

Whereas no domestic or international election observers are scheduled to oversee the March 2, 2012, elections;

Whereas the Government of the Islamic Republic of Iran continues to hold leading opposition figures under house arrest;

Whereas the Government of the Islamic Republic of Iran seeks to prevent the people of Iran from accessing news and information by incarcerating more journalists than any other country in the world, according to a 2011 report from the Committee to Protect Journalists; disrupting access to the Internet, including blocking e-mail and social networking sites and limiting access to foreign news and websites, developing a national Internet that will facilitate government censorship of news and information, and jamming international broadcasts such as the Voice of America's Persian News Network and Radio Free Europe/Radio Liberty's Radio Farda; and

Whereas opposition groups in Iran have announced they will boycott the March 2, 2012, election because they believe it will be neither free nor fair nor consistent with international standards: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms the commitment of the United States to democracy, human rights, civil liberties, and rule of law, including the universal rights of freedom of assembly, freedom of speech, and freedom of association;

(2) expresses support for freedom, human rights, civil liberties, and rule of law in Iran, and for elections that are free, fair, and meet international standards, including granting independent international and domestic electoral observers unrestricted access to polling and counting stations;

(3) expresses strong support for the people of Iran in their peaceful calls for a representative and responsive democratic government that respects human rights, civil liberties, and the rule of law;

(4) reminds the Government of the Islamic Republic of Iran of its obligations under the international covenants to which it is a signatory to hold elections that are free and fair;

(5) condemns the Government of the Islamic Republic of Iran's widespread human rights violations;

(6) calls on the Government of the Islamic Republic of Iran to respect freedom of expression and association in Iran by—

(A) ending arbitrary detention, torture, and other forms of harassment against media professionals, human rights defenders and activists, and opposition figures, and releasing all individuals detained for exercising universally recognized human rights;

(B) lifting legislative restrictions on freedoms of assembly, association, and expression; and

(C) allowing the Internet to remain free and open and allowing domestic and international media to operate freely;

(7) further calls on the Government of the Islamic Republic of Iran to allow international election monitors to be present for the March 2, 2012, elections; and

(8) urges the President, the Secretary of State, and other world leaders—

(A) to express support for the universal rights and freedoms of the people of Iran, including to democratic self-government;

(B) to broaden engagement with the people of Iran and support efforts in the country to help promote human rights and democratic reform, including by providing appropriate funding to civil society organizations for democracy and governance activities; and

(C) to condemn elections that are not free and fair and that do not meet international standards.

Mr. HOEVEN. Mr. President, I rise to speak to the Hoeven-Blumenthal resolution, and also, in addition to requesting 10 minutes, I request that my cosponsor on the resolution, Senator BLUMENTHAL, be allowed to engage with me in this discussion.

We have submitted a resolution calling for free and fair elections in Iran. Those elections will be held tomorrow, March 2. It is the first time the Republic of Iran has had parliamentary elections since June 12, 2009. I thank Senator BLUMENTHAL for joining me in this resolution and also Senator LINDSEY GRAHAM, Senator JOE LIEBERMAN, and Senator KELLY AYOTTE. As I say, I think we have now over 60 sponsors on this resolution, working to see that it can pass the Senate here very quickly. It expresses a sense of the Senate clearly calling for open, free, and fair elections in the Republic of Iran. The problem is that the elections they will be holding tomorrow are neither free nor fair. They are certainly not consistent with international standards.

As I said, these will be the first nationwide parliamentary elections since June 12, 2009. Those elections were neither free nor fair, and they provoked widespread protests throughout Iran. Those protests were brutally repressed, put down by the regime, Ayatollah Khamenei and Prime Minister Ahmadinejad, trampling human rights and taking political prisoners who remain in prison to this very day.

Since the last elections, uprisings, popular movements for self-determination, have taken place throughout the Middle East—often referred to as the Arab spring—in countries such as Tunisia, Egypt, Libya, and other places as well. We want to support that right to self-determination in Iran for the people in Iran as well.

Right now the only people who can run for office in Iran are people who are approved to run by the regime itself. They have the Council of Guardians, and the Council of Guardians has to approve anyone who wants to run for office, so the reality is the government of the regime itself decides whether you can run for office. About over 5,000 individuals applied to run for government, and of those 5,000 about 3,000 were approved by the Iranian regime to run. More than 2,000 were denied, so they cannot even run. Well, how can you have a free or a fair and or an open election that meets independent standards when the government decides who can run and who cannot run? It doesn't work. That is not the way elections should work.

America truly is a force for freedom and for democracy in the world, and that is why we are working to call the attention of the world to these elections. It is particularly important at this time that we stand with the Iranian people in calling for free and fair elections as we impose sanctions to try to prevent government from developing a nuclear weapon. We want to make very clear that while we need to impose strong, consistent sanctions that prevent the Iranian regime from obtaining a nuclear bomb, at the same time we support the Iranian people's right to self-determination.

Mr. President, I thank the good Senator from Connecticut for working with me on this resolution and recognizing the right of the Iranian people. I also want to thank our colleagues, as I say, now more than 60—who have joined us on this resolution and also look forward to quick passage.

With that, I wish to turn the floor over to my colleague, the good Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I wish to thank the Senator from North Dakota for his leadership on this very important issue. I want to thank him for his perseverance and his vision in seeing the importance—along with Senator MCCAIN, Senator GRAHAM, and Senator SESSIONS—of this kind of effort, which had its genesis in the trip that we took to Afghanistan, Egypt, Israel, Tunisia, and Libya.

What impressed us so much is how democracy is growing and starting there, and in that part of the world how the dictatorship and tyranny of Iran are such contrasts with the hopeful, burgeoning democracies that are growing there. That is the reason so many of our colleagues—I believe that over 60—have joined.

I want to ask unanimous consent that Senator KLOBUCHAR of Minnesota be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BLUMENTHAL. Mr. President, I am honored today to speak in support of the Hoeven-Blumenthal resolution calling for free and fair elections in Iran and condemning the Government of the Islamic Republic of Iran for its ongoing violations of human rights. These violations are brutal, tangible, and real in their impact on individual lives in that country, and our hearts go out to the people of Iran, particularly the individuals there fighting for freedom and democracy.

The world has watched the Arab spring bring down dictators in Tunisia and Tripoli, and the people of Iran continue to be denied those basic human rights that we hold dear and which should be universal.

I also want to thank Secretary Clinton for her tireless work in this region. She arrived in Tunisia shortly after we left to consult with all nations interested in aiding the Syrian people and she showed, again, her dedication to this same cause of human rights through her leadership there.

I saw in our meetings with a new generation of leaders that is emerging in the Middle East how dramatic the statements we make here and the actions that we take impress them in their fight for basic human rights. How we are speaking out here for universal suffrage and freedom has an impact on what they do, and perhaps many in our own country need to be reminded about the importance of what we say and do here.

The parliamentary elections that will occur on Friday in Iran will be neither free nor fair. They have already taken actions to assure that it will be, as one observer said, the fakest one yet. But the brutal oppression in human rights going on there is too real for those who suffer at that government's and that regime's hands. As the resolution makes clear, Iran has already disqualified 2,200 candidates from actually running for office simply based on their political views.

It maintains severe restrictions on the press, strangling a free press, preventing even the Voice of America and Radio Free Europe from reaching the people of Iran, having created a sham election, a travesty, and a tragedy. The Iranian regime now will force Iranians to vote at the polls in an effort to show popular support, and force them to vote simply to show this sham support. The truth is it has no such support. Allowing international monitors to bear witness, as we demand in our resolution, would reveal these acts of oppression for what they are and for the world to see.

The last nationwide election held in Iran, on June 12, 2009, was widely condemned throughout the world. Following the election, there was brutal repression documented all too dramatically by the videos and other evidence that, in effect, was smuggled out of Iran, although in real time. That large campaign of politically motivated violence, intimidation, repression, torture, cruel and degrading treatment, including rape, executions, and extrajudicial killings, and indefinite detention is all well documented.

On December 26, 2011, the United Nations General Assembly passed a resolution denouncing the serious human rights abuses occurring in Iran. The Hoeven-Blumenthal resolution lets the people of Iran know we are with them, they are not alone; that we side with them, and we stand and speak out on their behalf because they are not forgotten in their effort for democracy.

The future of the Middle East will be determined first and foremost by the

people of the Middle East themselves, but American strength, vision, and leadership are absolutely essential. So in that regard I am very proud and grateful for the 62 cosponsors of this resolution—now 63 with Senator KLOBUCHAR—and I again thank the Senator from North Dakota.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, I, too, wish to express my appreciation to Senator BLUMENTHAL and to all our cosponsors, and I look forward to the Senate agreeing to this important resolution.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I thank the two Senators for their good work on this very important resolution.

SENATE RESOLUTION 387—CELEBRATING BLACK HISTORY MONTH

Mrs. GILLIBRAND (for herself, Mr. WHITEHOUSE, Ms. MIKULSKI, Mr. MENENDEZ, Mr. SANDERS, Mr. UDALL of Colorado, Mr. BROWN of Ohio, Mr. DURBIN, Mrs. MURRAY, Mr. NELSON of Florida, Mr. PRYOR, Mr. AKAKA, Mr. SCHUMER, Ms. LANDRIEU, Mr. BROWN of Massachusetts, Mr. MERKLEY, Mr. NELSON of Nebraska, Mr. FRANKEN, Mr. LAUTENBERG, Mrs. BOXER, Mr. COCHRAN, Mr. CARDIN, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 387

Whereas in 1776, the United States of America was imagined, as stated in the Declaration of Independence, as a new country dedicated to the proposition that ''. . . all Men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness . . . .'';

Whereas the first Africans were brought involuntarily to the shores of America as early as the 17th century;

Whereas African-Americans suffered enslavement and subsequently faced the injustices of lynch mobs, segregation, and denial of the basic and fundamental rights of citizenship;

Whereas inequalities and injustices in our society still exist today;

Whereas in the face of injustices, people of the United States of good will and of all races distinguished themselves with a commitment to the noble ideals on which the United States was founded and courageously fought for the rights and freedom of African-Americans;

Whereas many African-American men and women worked against racism to achieve success and have made significant contributions to the economic, educational, political, artistic, literary, scientific, and technological advancements of the United States;

Whereas the greatness of the United States is reflected in the contributions of African-Americans in all walks of life throughout the history of the United States;

Whereas Lieutenant Colonel Allen Allensworth, Muhammad Ali, Constance Baker Motley, James Baldwin, James Beckwourth, Clara Brown, Ralph Bunche, Shirley Chisholm, Frederick Douglass, W. E. B. Du Bois, Ralph Ellison, Alex Haley, Dorothy Height, Lena Horne, Charles Hamilton Houston, Mahalia Jackson, Martin Luther King, Jr., the Tuskeegee Airmen, Thurgood Marshall, Rosa Parks, Bill Pickett, Jackie Robinson, Sojourner Truth, and Harriet Tubman each lived a life of incandescent greatness, while many African-Americans lived, toiled, and died in obscurity, never achieving the recognition they deserved and yet paved the way for future generations to succeed;

Whereas, pioneers such as Maya Angelou, Arthur Ashe, Jr., Carol Moseley Braun, Ronald Brown, Ursula Burns, Kenneth Chenault, David Dinkins, Alexis Herman, Mae Jemison, Earvin ''Magic'' Johnson, Sheila Johnson, James Earl Jones, David Paterson, Marian Wright Edelman, Alice Walker, and Oprah Winfrey have all benefitted from their forefathers and have served as great role models and leaders for future generations to come;

Whereas on November 4, 2008, the people of the United States elected an African-American man, Barack Obama, as President of the United States;

Whereas African-Americans continue to serve the United States at the highest levels of government and military;

Whereas on February 22, 2012, President Barack Obama and First Lady Michelle Obama, along with former First Lady Laura Bush, celebrated the groundbreaking of the National Museum of African American History and Culture on the National Mall in Washington, DC;

Whereas the birthdays of Abraham Lincoln and Frederick Douglass inspired the creation of Negro History Week, the precursor to Black History Month;

Whereas Negro History Week represented the culmination of the efforts of Dr. Carter G. Woodson to enhance knowledge of black history through the Journal of Negro History, published by the Association for the Study of African American Life and History, which was founded by Dr. Woodson and Jesse E. Moorland;

Whereas Black History Month, celebrated during the month of February, dates back to 1926 when Dr. Woodson set aside a special period of time in February to recognize the heritage and achievement of black Americans;

Whereas Dr. Woodson, the ''Father of Black History'', stated, ''We have a wonderful history behind us. . . . If you are unable to demonstrate to the world that you have this record, the world will say to you, 'You are not worthy to enjoy the blessings of democracy or anything else.' '';

Whereas since the founding, the United States has been an imperfect work in making progress towards noble goals; and

Whereas the history of the United States is the story of a people regularly affirming high ideals, striving to reach those ideals but often failing, and then struggling to come to terms with the disappointment of that failure before committing to trying again: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges that all of the people of the United States are the recipients of the wealth of history given to us by black culture;

(2) recognizes the importance of Black History Month as an opportunity to reflect on the complex history of the United States, while remaining hopeful and confident about the path that lies ahead;

(3) acknowledges the significance of Black History Month as an important opportunity to recognize the tremendous contributions of African-Americans to the history of the United States;

(4) encourages the celebration of Black History Month to provide a continuing opportunity for all people in the United States to learn from the past and to understand the experiences that have shaped the United States; and

(5) agrees that while the United States began in division, the United States must now move forward with purpose, united tirelessly as one Nation, indivisible, with liberty and justice for all, and to honor the contribution of all pioneers in this country who help ensure the legacy of these great United States.

SENATE RESOLUTION 388—COMMEMORATING THE 200TH ANNIVERSARY OF THE WAR OF 1812 AND ''THE STAR SPANGLED BANNER'', AND RECOGNIZING THE HISTORICAL SIGNIFICANCE, HEROIC HUMAN ENDEAVOR, AND SACRIFICE OF THE UNITED STATES ARMY, NAVY, MARINE CORPS, AND REVENUE MARINE SERVICE, AND STATE MILITIAS, DURING THE WAR OF 1812

Mr. CARDIN (for himself, Mr. PORTMAN, Mr. KERRY, Ms. MIKULSKI, Mr. LEVIN, and Mr. SESSIONS) submitted the following resolution; which was considered and agreed to:

S. RES. 388

Whereas the period beginning in 2012 and ending in 2015 marks the bicentennial celebration of the War of 1812 and ''The Star Spangled Banner'';

Whereas the War of 1812, which has been referred to as the ''Second War of Independence'', confirmed the independence of the United States from Great Britain in the eyes of the world and shaped the expansion and growth of the United States in later decades;

Whereas the United States declared war on Great Britain on June 18, 1812, to redress wrongs including—

(1) the impressment of United States sailors;

(2) the violation of the neutrality rights of the United States; and

(3) the violation of the territorial waters of the United States;

Whereas, despite the vastly superior size of the military of Great Britain, the United States Army, Navy, Marine Corps, and Revenue Marine Service (a predecessor of the United States Coast Guard), and State militias (the predecessors of the National Guard), won a number of significant victories, ensuring that the liberties won by the United States during the Revolutionary War were not lost;

Whereas major battles of the War of 1812 that were fought on the water, including the battle between U.S.S. *Constitution* and H.M.S. *Guerriere*, the Battle of Lake Champlain, and victories on the Great Lakes, showcased the might, bravery, and war-fighting tactics of the United States maritime forces;

Whereas the decisive victory of Oliver Hazard Perry over a British fleet near Put-In-Bay, Ohio in the Battle of Lake Erie ensured that—

(1) the United States gained control of the Great Lakes; and

(2) portions of the Old Northwest Territory, such as Ohio, Michigan, Illinois, Minnesota, and Wisconsin, remained part of the United States;

Whereas State militias, the oldest component of the Armed Forces of the United

States, answered the call to service, defending their communities and their country from aggression by Great Britain;

Whereas United States forces seized the city of Mobile from Spanish control in 1813, built Fort Bowyer to protect the city, and in 1814 successfully repelled a vastly larger British force from the city, resulting in Mobile becoming one of the few permanent land concessions gained by the United States during the War of 1812;

Whereas Great Britain unleashed grievous attacks on the capital of the United States, Washington, D.C., burning to the ground the United States Capitol Building, the White House, and much of the rest of the city;

Whereas, after 2½ years of conflict, the British Royal Navy sailed up the Chesapeake Bay in an attempt to capture Baltimore, Maryland;

Whereas United States forces at Fort McHenry, stationed in the outer harbor of Baltimore, Maryland under the command of Brevet Lieutenant Colonel George Armistead, withstood nearly 25 hours of bombardment by the British forces and refused to yield, thereby forcing the British to give up the invasion and withdraw;

Whereas Francis Scott Key, a United States lawyer who was being held by the British on board a United States flag-of-truce vessel in the harbor, saw ''by the dawn's early light'', as Key would later write, an American flag still flying over Fort McHenry after the horrific attack;

Whereas Francis Scott Key immortalized the event in a poem entitled ''Defense of Fort McHenry'', which was later set to music and called ''The Star-Spangled Banner'';

Whereas ''The Star-Spangled Banner'' became the national anthem of the United States on March 3, 1931, when President Herbert Hoover signed Public Law 71–823;

Whereas General Andrew Jackson, who would later become the seventh President of the United States, won the Battle of Horsehoe Bend and then triumphed in the decisive Battle of New Orleans, which, although fought after the signing of the Treaty of Ghent, was a great source of pride to the young United States and provided momentum for growth and prosperity in the years that would follow;

Whereas, since 1916, the people of the United States have entrusted the National Park Service with the care of national parks and sites of historical significance to the country, including Fort McHenry and more than 30 other sites and National Heritage Areas that tell the story of the War of 1812;

Whereas the diverse historic sites relating to the War of 1812 include homes, battlefields, and landscapes that highlight the contributions made by a wide range of people in the United States during the war;

Whereas one such historic site is the Fort McHenry National Monument and Historic Shrine, the birthplace of ''The Star Spangled Banner'', where the symbols of both the flag and the national anthem of the United States come together;

Whereas the people of the United States are grateful for the rights defended through hard fighting during the War of 1812 by the United States Army, Navy, Marine Corps, and Revenue Marine Service, and State militias, including the protection of United States citizens at home and abroad, unrestricted trade, free and open ports, and the protection of the territorial integrity of the United States against aggression; and

Whereas, during the bicentennial years of the War of 1812 and ''The Star Spangled Banner'', it is fitting that the bravery and steadfast determination of the United States land and maritime forces be celebrated by the grateful people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the memory of all the people of the United States who came together during the War of 1812, particularly the fallen heroes who gave their lives during the ''Second War of Independence'';

(2) commends the men and women of the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, and the State National Guards, who preserve the ideals of freedom, democracy, and the pursuit of happiness that were guaranteed by the victories of the War of 1812;

(3) congratulates the Armed Forces of the United States, the National Parks Service, the Maryland War of 1812 Bicentennial Commission, and all other organizations and individuals who are involved in preserving and promoting the history of this great country, and supports their commemoration of the War of 1812 and ''The Star Spangled Banner''; and

(4) calls on all people of the United States to join in the commemoration of the bicentennial of the War of 1812 and ''The Star Spangled Banner'' in events throughout the United States, to celebrate that at the end of the war, as Francis Scott Key wrote, ''our flag was still there''.

SENATE CONCURRENT RESOLUTION 35—TO ESTABLISH THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES FOR THE INAUGURATION OF THE PRESIDENT-ELECT AND VICE PRESIDENT-ELECT OF THE UNITED STATES ON JANUARY 21, 2013

Mr. SCHUMER (for himself and Mr. ALEXANDER) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 35

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. ESTABLISHMENT OF JOINT COMMITTEE.

There is established a Joint Congressional Committee on Inaugural Ceremonies (in this resolution referred to as the ''joint committee'') consisting of 3 Senators and 3 Members of the House of Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. The joint committee is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013.

SEC. 2. SUPPORT OF THE JOINT COMMITTEE.

The joint committee—

(1) is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between the joint committee and the heads of those departments and agencies, in connection with the inaugural proceedings and ceremonies; and

(2) may accept gifts and donations of goods and services to carry out its responsibilities.

SENATE CONCURRENT RESOLUTION 36—TO AUTHORIZE THE USE OF THE ROTUNDA AND EMANCIPATION HALL OF THE CAPITOL BY THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES IN CONNECTION WITH THE PROCEEDINGS AND CEREMONIES CONDUCTED FOR THE INAUGURATION OF THE PRESIDENT-ELECT AND THE VICE PRESIDENT-ELECT OF THE UNITED STATES

Mr. SCHUMER (for himself and Mr. ALEXANDER) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 36

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF THE ROTUNDA AND EMANCIPATION HALL OF THE CAPITOL.

The rotunda and Emancipation Hall of the United States Capitol are authorized to be used on January 21, 2013, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1757. Mr. UDALL, of New Mexico (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1758. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1759. Mr. BINGAMAN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1760. Mr. BROWN, of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1761. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1762. Mr. REID proposed an amendment to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra.

SA 1763. Mr. REID proposed an amendment to the bill S. 1813, supra.

SA 1764. Mr. REID proposed an amendment to amendment SA 1763 proposed by Mr. REID to the bill S. 1813, supra.

SA 1765. Mr. REID proposed an amendment to amendment SA 1764 proposed by Mr. REID to the amendment SA 1763 proposed by Mr. REID to the bill S. 1813, supra.

SA 1766. Mr. BROWN, of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1767. Mr. LAUTENBERG (for himself, Mr. DURBIN, Mrs. GILLIBRAND, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1768. Mr. HARKIN (for himself, Mr. MORAN, Mr. LEVIN, Ms. STABENOW, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1769. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1770. Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1757. Mr. UDALL of New Mexico (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 210, strike line 10 and all that follows through page 218, line 20, and insert the following:

''(A) BASIS.—After making the set asides authorized under subsections (a)(6), (c), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as described in subparagraph (B).

''(B) TRIBAL SHARES.—

''(i) IN GENERAL.—Subject to clause (ii), tribal shares under this program shall be determined in the same manner as determined under section 202, as in effect on the day before the date of enactment of the MAP–21, except that inventory included under subsection (d)(2)(G)(ii) of that section 202 after the date of enactment of the MAP–21 shall not be used to determine the relative transportation needs of an Indian tribe under any disbursement formula developed in accordance with this subparagraph.

''(ii) COMMITTEE ON FORMULA GRANTS.—

''(I) IN GENERAL.—The Secretary and the Secretary of the Interior shall jointly establish a committee on formula grants under the tribal transportation program, which shall be composed of—

''(aa) 1 representative from each Region of the Bureau of Indian Affairs, who shall be appointed by the Secretary based on the recommendation of the Indian tribes in each such Region; and

''(bb) employees of the Department of Transportation and the Department of the Interior having expertise in tribal transportation.

''(II) DUTIES OF THE COMMITTEE.—During the 18-month period after the date of enactment of the MAP–21, the committee shall develop a formula for the distribution of amounts under this section.

''(III) IMPLEMENTATION.—The Secretary shall implement the distribution formula developed under subclause (II) in the first fiscal year after the date on which the formula is developed.

''(IV) REPORT.—Not later than 2 years after the date of enactment of the MAP–21, the Secretary of the Interior, in consultation with the committee, shall submit to Congress a report that describes the implementation of and transition to the distribution formula developed by the committee.

''(iii) APPLICABILITY.—If the committee established under clause (ii) fails to develop a proposed distribution formula, the distribution formula under section 202, as in effect on the day before the date of enactment of the MAP–21 and modified by clause (i), shall remain in effect.

SA 1758. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PASSENGER RAIL AIR QUALITY STUDY.

(a) IN GENERAL.—The Secretary shall—

(1) conduct a study of the air quality in—

(A) passenger cars of commuter and intercity trains with diesel or diesel-electric locomotives; and

(B) rail stations serviced by diesel or diesel-electric locomotives; and

(2) determine cost-effective ways to reduce diesel emissions and improve air quality in the passenger cars and rail stations described in paragraph (1).

(b) CONSULTATION REQUIREMENT.—In conducting the study under subsection (a)(1), the Secretary shall consult with representatives of—

(1) the Environmental Protection Agency;

(2) the Federal Railroad Administration;

(3) the Federal Transit Administration;

(4) the Occupational Safety and Health Administration;

(5) State Departments of Transportation;

(6) commuter rail transit agencies;

(7) the public transportation industry;

(8) public health groups; and

(9) commuter rail worker organizations.

(c) REPORT.—

(1) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report containing the results of the study conducted under subsection (a)(1) and the determinations made under subsection (a)(2) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) the Committee on Transportation and Infrastructure of the House of Representatives.

(2) PUBLIC DISSEMINATION.—The report submitted under paragraph (1) shall be simultaneously made available through a publicly accessible Internet website.

SA 1759. Mr. BINGAMAN (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, between lines 3 and 4, insert the following:

''(C) FURTHER ADJUSTMENT FOR PRIVATIZED HIGHWAYS.—

''(i) DEFINITION OF PRIVATIZED HIGHWAY.—In this subparagraph:

''(I) IN GENERAL.—The term 'privatized highway' means a highway that was formerly a publically operated toll road that is subject to an agreement giving a private entity—

''(aa) control over the operation of the highway; and

''(bb) ownership over the toll revenues collected from the operation of the highway.

''(II) EXCLUSION.—The term 'privatized highway' does not include any highway or toll road that was originally—

''(aa) financed and constructed using private funds; and

''(bb) operated by a private entity.

''(ii) ADJUSTMENT.—After making the adjustments to the apportionment of a State under subparagraphs (A) and (B), the Secretary shall further adjust the amount to be apportioned to the State by reducing the apportionment by an amount equal to the product obtained by multiplying—

''(I) the amount to be apportioned to the State, as so adjusted under those subparagraphs; and

''(II) the percentage described in clause (iii).

''(iii) PERCENTAGE.—The percentage referred to in clause (ii) is the percentage equal to the sum obtained by adding—

''(I) the product obtained by multiplying—

''(aa) ½; and

''(bb) the proportion that—

''(AA) the total number of lane miles on privatized highway lanes on National Highway System routes in a State; bears to

''(BB) the total number of all lane miles on National Highway System routes in the State; and

''(II) the product obtained by multiplying—

''(aa) ½; and

''(bb) the proportion that—

''(AA) the total number of vehicle miles traveled on privatized highway lanes on National Highway System routes in the State; bears to

''(BB) the total number of vehicle miles traveled on all lanes on National Highway System routes in the State.

''(iv) REAPPORTIONMENT.—An amount withheld from apportionment to a State under clause (ii) shall be reapportioned among all other States based on the proportions calculated under subparagraph (A).

SA 1760. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

SEC. 15___. UPDATED CORROSION CONTROL AND PREVENTION REPORT.

Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to Congress an updated report on the costs and benefits of the prevention and control of corrosion on transportation infrastructure of the United States.

SA 1761. Mr. REID proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

Strike all after the first word and insert the following:

1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Moving Ahead for Progress in the 21st Century Act'' or the ''MAP–21''.

(b) DIVISIONS.—This Act is organized into 4 divisions as follows:

(1) Division A–Federal-aid Highways and Highway Safety Construction Programs.

(2) Division B–Public Transportation.

(3) Division C–Transportation Safety and Surface Transportation Policy.

(4) Division D–Finance.

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

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) DEPARTMENT.—The term ''Department'' means the Department of Transportation.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

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

(2) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION PROGRAM.—For credit assistance under the transportation infrastructure finance and innovation program under chapter 6 of title 23, United States Code, $1,000,000,000 for each of fiscal years 2012 and 2013.

(3) FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.—

(A) TRIBAL TRANSPORTATION PROGRAM.—For the tribal transportation program under section 202 of title 23, United States Code, $450,000,000 for each of fiscal years 2012 and 2013.

(B) FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Federal lands transportation program under section 203 of title 23, United States Code, $300,000,000 for each of fiscal years 2012 and 2013, of which $260,000,000 of the amount made available for each fiscal year shall be the amount for the National Park Service and the United States Fish and Wildlife Service.

(C) FEDERAL LANDS ACCESS PROGRAM.—For the Federal lands access program under section 204 of title 23, United States Code, $250,000,000 for each of fiscal years 2012 and 2013.

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

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

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

(A) SMALL BUSINESS CONCERN.—

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

(ii) EXCLUSIONS.—The term ''small business concern'' does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of $22,410,000, as adjusted annually by the Secretary for inflation.

(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''socially and economically disadvantaged individuals'' means—

(i) women; and

(ii) any other socially and economically disadvantaged individuals (as the term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant to that Act).

(2) AMOUNTS FOR SMALL BUSINESS CONCERNS.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under divisions A and B of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—

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

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

(i) women;

(ii) socially and economically disadvantaged individuals (other than women); and

(iii) individuals who are women and are otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall establish minimum uniform criteria for use by State governments in certifying whether a concern qualifies as a small business concern for the purpose of this subsection.

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

(i) on-site visits;

(ii) personal interviews with personnel;

(iii) issuance or inspection of licenses;

(iv) analyses of stock ownership;

(v) listings of equipment;

(vi) analyses of bonding capacity;

(vii) listings of work completed;

(viii) examination of the resumes of principal owners;

(ix) analyses of financial capacity; and

(x) analyses of the type of work preferred.

(5) REPORTING.—The Secretary shall establish minimum requirements for use by State governments in reporting to the Secretary—

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

(B) such other information as the Secretary determines to be appropriate for the proper monitoring of the disadvantaged business enterprise program.

(6) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an individual or entity to receive funds made available under divisions A and B of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (2) because a Federal court issues a final order in which the court finds that a requirement or the implementation of paragraph (2) is unconstitutional.

SEC. 1102. OBLIGATION CEILING.

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

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

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

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

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

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

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

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

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027);

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

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

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

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

(11) section 1603 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1248), to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation; and

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

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2012 through 2013, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

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

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

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

(3) shall determine the proportion that—

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

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

(4) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the proportion determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraph (4), for Federal-aid highway and highway safety construction programs that are apportioned by the Secretary under title 23, United States Code (other than the amounts apportioned for the national highway performance program in section 119 of title 23, United States Code, that are exempt from the limitation under subsection (b)(12)) in the proportion that—

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

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2012 through 2013—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

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

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

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

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

(B) title II of this Act.

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

(A) remain available for a period of 4 fiscal years; and

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

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

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

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, for the fiscal year because of the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same proportion as the distribution of obligation authority under subsection (c)(5).

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

(4) EXCEPTIONS.—This subsection shall not apply to funds provided for the tribal transportation program under section 202 of title 23, United States Code.

SEC. 1103. DEFINITIONS.

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

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

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

(3) by inserting after paragraph (1) the following:

''(2) ASSET MANAGEMENT.—The term 'asset management' means a strategic and systematic process of operating, maintaining, and improving physical assets, with a focus on both engineering and economic analysis based upon quality information, to identify a structured sequence of maintenance, preservation, repair, rehabilitation, and replacement actions that will achieve and sustain a desired state of good repair over the lifecycle of the assets at minimum practicable cost.'';

(4) in paragraph (4) (as redesignated by paragraph (2))—

(A) in the matter preceding subparagraph (A), by inserting ''or any project eligible for assistance under this title'' after ''of a highway'';

(B) by striking subparagraph (A) and inserting the following:

''(A) preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services;'';

(C) in subparagraph (B)—

(i) by inserting ''reconstruction,'' before ''resurfacing''; and

(ii) by striking ''and rehabilitation'' and inserting ''rehabilitation, and preservation'';

(D) in subparagraph (E) by striking ''railway'' and inserting ''railway-highway''; and

(E) in subparagraph (F) by striking ''obstacles'' and inserting ''hazards'';

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

(A) by inserting ''public'' before ''highway eligible''; and

(B) by inserting ''functionally'' before ''classified'';

(6) by inserting after paragraph (6) (as so redesignated) the following:

''(7) FEDERAL LANDS ACCESS TRANSPORTATION FACILITY.—The term 'Federal Lands access transportation facility' means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government.

''(8) FEDERAL LANDS TRANSPORTATION FACILITY.—The term 'Federal lands transportation facility' means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title and maintenance responsibility is vested in the Federal Government, and that appears on the national Federal lands transportation facility inventory described in section 203(c).'';

(7) in paragraph (11)(B) by inserting ''including public roads on dams'' after ''drainage structure'';

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

(A) by striking ''as a'' and inserting ''as an air quality''; and

(B) by inserting ''air quality'' before ''attainment area'';

(9) in paragraph (18) (as so redesignated) by striking ''an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed or any other undertaking'' and inserting ''any undertaking'';

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

(A) by striking ''the State transportation department and''; and

(B) by inserting ''and the recipient'' after ''Secretary'';

(11) by striking paragraph (23) (as so redesignated) and inserting the following:

''(23) SAFETY IMPROVEMENT PROJECT.—The term 'safety improvement project' means a strategy, activity, or project on a public road that is consistent with the State strategic highway safety plan and corrects or improves a roadway feature that constitutes a hazard to road users or addresses a highway safety problem.'';

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

''(27) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' has the same meaning given such term in section 148(a).'';

(13) by striking paragraph (29) (as so redesignated) and inserting the following:

''(29) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means any of the following activities when carried out as part of any program or project authorized or funded under this title, or as an independent program or project related to surface transportation:

''(A) Provision of facilities for pedestrians and bicycles.

''(B) Provision of safety and educational activities for pedestrians and bicyclists.

''(C) Acquisition of scenic easements and scenic or historic sites.

''(D) Scenic or historic highways and bridges.

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

''(F) Historic preservation, rehabilitation, and operation of historic transportation buildings, structures, or facilities.

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

''(H) Inventory, control, and removal of outdoor advertising.

''(I) Archaeological planning and research.

''(J) Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to—

''(i) address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11), 328(a), and 329; or

''(ii) reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats.''; and

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

''(30) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

''(A) IN GENERAL.—The term 'transportation systems management and operations' means integrated strategies to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

''(B) INCLUSIONS.—The term 'transportation systems management and operations' includes—

''(i) actions such as traffic detection and surveillance, corridor management, freeway management, arterial management, active transportation and demand management, work zone management, emergency management, traveler information services, congestion pricing, parking management, automated enforcement, traffic control, commercial vehicle operations, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations; and

''(ii) coordination of the implementation of regional transportation system management and operations investments (such as traffic incident management, traveler information services, emergency management, roadway weather management, intelligent transportation systems, communication networks, and information sharing systems) requiring agreements, integration, and interoperability to achieve targeted system performance, reliability, safety, and customer service levels.

''(31) TRIBAL TRANSPORTATION FACILITY.—The term 'tribal transportation facility' means a public highway, road, bridge, trail, or transit system that is located on or provides access to tribal land and appears on the national tribal transportation facility inventory described in section 202(b)(1).

''(32) TRUCK STOP ELECTRIFICATION SYSTEM.—The term 'truck stop electrification system' means a system that delivers heat, air conditioning, electricity, or communications to a heavy-duty vehicle.''.

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

SEC. 1104. NATIONAL HIGHWAY SYSTEM.

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

"§ 103. National highway system

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

''(b) NATIONAL HIGHWAY SYSTEM.—

''(1) DESCRIPTION.—The National Highway System consists of the highway routes and connections to transportation facilities that shall—

''(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

''(B) meet national defense requirements; and

''(C) serve interstate and interregional travel and commerce.

''(2) COMPONENTS.—The National Highway System described in paragraph (1) consists of the following:

''(A) The National Highway System depicted on the map submitted by the Secretary of Transportation to Congress with the report entitled 'Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals' and dated May 24, 1996, and modifications approved by the Secretary before the date of enactment of the MAP–21.

''(B) Other urban and rural principal arterial routes, and border crossings on those routes, that were not included on the National Highway System before the date of enactment of the MAP–21.

'' ''(C) Other connector highways (including toll facilities) that were not included in the National Highway System before the date of enactment of the MAP–21 but that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

''(D) A strategic highway network that—

''(i) consists of a network of highways that are important to the United States strategic defense policy, that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime, and that were not included on the National Highway System before the date of enactment of the MAP–21;

''(ii) may include highways on or off the Interstate System; and

''(iii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

''(E) Major strategic highway network connectors that—

''(i) consist of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network but were not included on the National Highway System before the date of enactment of the MAP–21; and

''(ii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

''(3) MODIFICATIONS TO NHS.—

''(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State if the Secretary determines that the modification—

''(i) meets the criteria established for the National Highway System under this title after the date of enactment of the MAP–21; and

''(ii) enhances the national transportation characteristics of the National Highway System.

''(B) COOPERATION.—

''(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

''(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

''(c) INTERSTATE SYSTEM.—

''(1) DESCRIPTION.—

''(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico) consists of highways designed, located, and selected in accordance with this paragraph.

''(B) DESIGN.—

''(i) IN GENERAL.—Except as provided in clause (ii), highways on the Interstate System shall be designed in accordance with the standards of section 109(b).

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

''(C) LOCATION.—Highways on the Interstate System shall be located so as—

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

''(ii) to serve the national defense; and

''(iii) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

''(D) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation departments of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

''(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

''(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

''(4) INTERSTATE SYSTEM DESIGNATIONS.—

''(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

''(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

''(i) IN GENERAL.—Subject to clauses (ii) through (vi), if the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A) if the highway met all standards of a highway on the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

''(ii) WRITTEN AGREEMENT.—A designation under clause (i) shall be made only upon the written agreement of each State described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by not later than the date that is 25 years after the date of the agreement.

''(iii) FAILURE TO COMPLETE CONSTRUCTION.—If a State described in clause (i) has not substantially completed the construction of a highway designated under this subparagraph by the date specified in clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

''(iv) EFFECT OF REMOVAL.—Removal of the designation of a highway under clause (iii) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

''(v) RETROACTIVE EFFECT.—An agreement described in clause (ii) that is entered into before August 10, 2005, shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.

''(vi) REFERENCES.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, and no such highway shall be signed or marked, as a highway on the Interstate System, until such time as the highway—

''(I) is constructed to the geometric and construction standards for the Interstate System; and

''(II) has been designated as a route on the Interstate System.

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

''(5) EXEMPTION OF INTERSTATE SYSTEM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions or elements of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

''(B) INDIVIDUAL ELEMENTS.—Subject to subparagraph (C)—

''(i) the Secretary shall determine, through the administrative process established for exempting the Interstate System from section 106 of the National Historic Preservation Act (16 U.S.C. 470f), those individual elements of the Interstate System that possess national or exceptional historic significance (such as a historic bridge or a highly significant engineering feature); and

''(ii) those elements shall be considered to be historic sites under section 303 of title 49 or section 138 of this title, as applicable.

''(C) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, preservation, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act (16 U.S.C. 470f).''.

(b) INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM.—

(1) IN GENERAL.—Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031; 109 Stat. 597; 115 Stat. 872) is amended—

(A) in the first sentence, by striking ''and in subsections (c)(18) and (c)(20)'' and inserting '', in subsections (c)(18) and (c)(20), and in subparagraphs (A)(iii) and (B) of subsection (c)(26)''; and

(B) in the second sentence, by striking ''that the segment'' and all that follows through the period and inserting ''that the segment meets the Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code, and is planned to connect to an existing Interstate System segment by the date that is 25 years after the date of enactment of the MAP–21.''.

(2) ROUTE DESIGNATION.—Section 1105(e)(5)(C)(i) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 109 Stat. 598) is amended by adding at the end the following: ''The routes referred to subparagraphs (A)(iii) and (B)(i) of subsection (c)(26) are designated as Interstate Route I-11.''.

(c) CONFORMING AMENDMENTS.—

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

''103. National highway system.''.

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

(A) in subsection (a) by striking ''the Federal-aid systems'' and inserting ''Federal-aid highways''; and

(B) in subsection (b), in the first sentence, by striking ''of the Federal-aid systems'' and inserting ''Federal-aid highway''.

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

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

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

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

SEC. 1105. APPORTIONMENT.

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

''§ 104. Apportionment

''(a) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration $480,000,000 for each of fiscal years 2012 and 2013.

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

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

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

''(C) to reimburse, as appropriate, the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

''(3) AVAILABILITY.—The amounts made available under paragraph (1) shall remain available until expended.

''(b) DIVISION OF STATE APPORTIONMENTS AMONG PROGRAMS.—The Secretary shall distribute the amount apportioned to a State for a fiscal year under subsection (c) among the national highway performance program, the transportation mobility program, the highway safety improvement program, the congestion mitigation and air quality improvement program, and the national freight program, and to carry out section 134 as follows:

''(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance program, 58 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

''(2) TRANSPORTATION MOBILITY PROGRAM.—For the transportation mobility program, 29.3 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

''(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, 7 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

''(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, an amount determined by multiplying the amount determined for the State under subsection (c) by the proportion that—

''(A) the amount apportioned to the State for the congestion mitigation and air quality improvement program for fiscal year 2009, plus 10 percent of the amount apportioned to the State for the surface transportation program for that fiscal year; bears to

''(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP–21.

''(5) NATIONAL FREIGHT PROGRAM.—For the national freight program, 5.7 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

''(6) METROPOLITAN PLANNING.—To carry out section 134, an amount determined by multiplying the amount determined for the State under subsection (c) by the proportion that—

''(A) the amount apportioned to the State to carry out section 134 for fiscal year 2009; bears to

''(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP–21.

''(c) CALCULATION OF STATE AMOUNTS.—

''(1) STATE SHARE.—The amount for each State of combined apportionments for the national highway performance program under section 119, the transportation mobility program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national freight program under section 167, and to carry out section 134 shall be determined as follows:

''(A) INITIAL AMOUNT.—The initial amount for each State shall be determined by multiplying the total amount available for apportionment by the share for each State which shall be equal to the proportion that—

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

''(ii) the amount of those apportionments and allocations received by all States for those fiscal years.

''(B) ADJUSTMENTS TO AMOUNTS.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that, for each State, the amount of combined apportionments for the programs shall not be less than 95 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

''(2) STATE APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion the sum authorized to be appropriated for expenditure on the national highway performance program under section 119, the transportation mobility program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national freight program under section 167, and to carry out section 134 in accordance with paragraph (1).

''(d) METROPOLITAN PLANNING.—

''(1) USE OF AMOUNTS.—

''(A) USE.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amounts apportioned to a State under subsection (b)(6) shall be made available by the State to the metropolitan planning organizations responsible for carrying out section 134 in the State.

''(ii) STATES RECEIVING MINIMUM APPORTIONMENT.—A State that received the minimum apportionment for use in carrying out section 134 for fiscal year 2009 may, subject to the approval of the Secretary, use the funds apportioned under subsection (b)(6) to fund transportation planning outside of urbanized areas.

''(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.

''(2) DISTRIBUTION OF AMOUNTS WITHIN STATES.—

''(A) IN GENERAL.—The distribution within any State of the planning funds made available to organizations under paragraph (1) shall be in accordance with a formula that—

''(i) is developed by each State and approved by the Secretary; and

''(ii) takes into consideration, at a minimum, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out section 134 and other applicable requirements of Federal law.

''(B) REIMBURSEMENT.—Not later than 15 business days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from amounts distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

''(3) DETERMINATION OF POPULATION FIGURES.—For the purpose of determining population figures under this subsection, the Secretary shall use the latest available data from the decennial census conducted under section 141(a) of title 13, United States Code.

''(e) CERTIFICATION OF APPORTIONMENTS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) on October 1 of each fiscal year, certify to each of the State transportation departments the amount that has been apportioned to the State under this section for the fiscal year; and

''(B) to permit the States to develop adequate plans for the use of amounts apportioned under this section, advise each State of the amount that will be apportioned to the State under this section for a fiscal year not later than 90 days before the beginning of the fiscal year for which the sums to be apportioned are authorized.

''(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under this section for a fiscal year beginning after September 30, 1998, by not later than the date that is the twenty-first day of that fiscal year, the Secretary shall submit, by not later than that date, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, a written statement of the reason for not making the apportionment in a timely manner.

''(3) APPORTIONMENT CALCULATIONS.—

''(A) IN GENERAL.—The calculation of official apportionments of funds to the States under this title is a primary responsibility of the Department and shall be carried out only by employees (and not contractors) of the Department.

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

''(f) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

''(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

''(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the amounts transferred under subparagraph (A).

''(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), amounts made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

''(B) NON-FEDERAL SHARE.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to amounts transferred under subparagraph (A).

''(3) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may, at the request of a State, transfer amounts apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more projects that are eligible for assistance with amounts so apportioned or allocated.

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

''(C) FUNDS SUBALLOCATED TO URBANIZED AREAS.—Amounts that are apportioned or allocated to a State under subsection (b)(3) (as in effect on the day before the date of enactment of the MAP–21) or subsection (b)(2) and attributed to an urbanized area of a State with a population of more than 200,000 individuals under section 133(d) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

''(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be transferred in the same manner and amount as the amounts for the projects that are transferred under this section.''

''(g) REPORT TO CONGRESS.—For each fiscal year, the Secretary shall make available to the public, in a user-friendly format via the Internet, a report that describes—

''(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

''(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section;

''(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and

''(4) the rates of obligation of funds apportioned or set aside under this section, according to—

''(A) program;

''(B) funding category of subcategory;

''(C) type of improvement;

''(D) State; and

''(E) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area.''.

(b) CONFORMING AMENDMENT.—Section 146(a) of title 23, United States Code, is amended by striking ''sections 104(b)(1) and 104(b)(3)'' and inserting ''section 104(b)(2)''.

SEC. 1106. NATIONAL HIGHWAY PERFORMANCE PROGRAM.

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

''§ 119. National highway performance program

''(a) ESTABLISHMENT.—The Secretary shall establish and implement a national highway performance program under this section.

''(b) PURPOSES.—The purposes of the national highway performance program shall be—

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

''(2) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets for infrastructure condition and performance.

''(c) ELIGIBLE FACILITIES.—Except as provided in subsection (d), to be eligible for funding apportioned under section 104(b)(1) to carry out this section, a facility shall be located on the National Highway System, as defined in section 103.

''(d) ELIGIBLE PROJECTS.—Funds apportioned to a State to carry out the national highway performance program may be obligated only for a project on an eligible facility that is—

''(1) a project, or is part of a program of projects, supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, mobility, or freight movement on the National Highway System and consistent with sections 134 and 135; and

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

''(A) Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvement of segments of the National Highway System.

''(B) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on the National Highway System.

''(C) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including impact protection measures, security countermeasures, and protection against extreme events) of tunnels on the National Highway System.

''(D) Inspection and evaluation, as described in section 144, of bridges and tunnels on the National Highway System, and inspection and evaluation of other highway infrastructure assets on the National Highway System, including signs and sign structures, earth retaining walls, and drainage structures.

''(E) Training of bridge and tunnel inspectors, as described in section 144.

''(F) Construction, rehabilitation, or replacement of existing ferry boats and ferry boat facilities, including approaches, that connect road segments of the National Highway System.

''(G) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

''(i) the highway project or transit project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

''(ii) the construction or improvements will reduce delays or produce travel time savings on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

''(iii) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the fully access-controlled highway described in clause (i).

''(H) Bicycle transportation and pedestrian walkways in accordance with section 217.

''(I) Highway safety improvements for segments of the National Highway System.

''(J) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs.

''(K) Development and implementation of a State asset management plan for the National Highway System in accordance with this section, including data collection, maintenance, and integration and the cost associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management.

''(L) Infrastructure-based intelligent transportation systems capital improvements.

''(M) Environmental restoration and pollution abatement in accordance with section 328.

''(N) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

''(O) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

''(i) contributions to those mitigation efforts may—

''(I) take place concurrent with or in advance of project construction; and

''(II) occur in advance of project construction only if the efforts are consistent with

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

''(ii) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

''(P) Replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on Federal-aid highways (other than on the National Highway System).

''(e) LIMITATION ON NEW CAPACITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the maximum amount that a State may obligate under this section for projects under subparagraphs (G) and (P) of subsection (d)(2) and that is attributable to the portion of the cost of any project undertaken to expand the capacity of eligible facilities on the National Highway System, in a case in which the new capacity consists of 1 or more new travel lanes that are not high-occupancy vehicle lanes, shall not, in total, exceed 40 percent of the combined apportionments of a State under section 104(b)(1) for the most recent 3 consecutive years.

''(2) EXCEPTION.—Paragraph (1) shall not apply to a project for the construction of auxiliary lanes and turning lanes or widening of a bridge during rehabilitation or replacement to meet current geometric, construction, and structural standards for the types and volumes of projected traffic over the design life of the project.

''(f) STATE PERFORMANCE MANAGEMENT.—

''(1) IN GENERAL.—A State shall develop a risk-based asset management plan for the National Highway System to improve or preserve asset condition and system performance.

''(2) PERFORMANCE DRIVEN PLAN.—A State asset management plan shall include strategies leading to a program of projects that would make progress toward achievement of the State targets for asset condition and performance of the National Highway System in accordance with paragraph (5) and supporting the progress toward the achievement of the national goals identified in section 150.

''(3) PLAN CONTENTS.—A State asset management plan shall, at a minimum, be in a form that the Secretary determines to be appropriate and include—

''(A) a summary listing of the pavement and bridge assets on the National Highway System in the State, including a description of the condition of those assets;

''(B) asset management objectives and measures;

''(C) performance gap identification;

''(D) lifecycle cost and risk management analysis;

''(E) a financial plan; and

''(F) investment strategies.

''(4) STANDARDS AND MEASURES.—

''(A) IN GENERAL.—Subject to subparagraph (B), not later than 18 months after the date of enactment of the MAP–21, the Secretary shall, in consultation with State departments of transportation and other stakeholders, establish—

''(i) minimum standards for States to use in developing and operating pavement management systems and bridge management systems;

''(ii) measures for States to use to assess—

''(I) the condition of pavements on the Interstate system;

''(II) the condition of pavements on the National Highway System (excluding the Interstate);

''(III) the condition of bridges on the National Highway System;

''(IV) the performance of the Interstate System; and

''(V) the performance of the National Highway System (excluding the Interstate System);

''(iii) the data elements that are necessary to collect and maintain data, and a standardized process for collection and sharing of data with appropriate governmental entities at the Federal, State, and local levels (including metropolitan planning organizations), to carry out paragraph (5); and

''(iv) minimum levels for—

''(I) the condition of pavement on the Interstate System; and

''(II) the condition of bridges on the National Highway System.

''(B) STATE PARTICIPATION.—In carrying out subparagraph (A), the Secretary shall—

''(i) provide States not less than 90 days to comment on any regulation proposed by the Secretary under that subparagraph; and

''(ii) take into consideration any comments of the States relating to a proposed regulation received during that comment period.

''(5) STATE PERFORMANCE TARGETS.—

''(A) ESTABLISHMENT OF TARGETS.—Not later than 1 year after the date on which the Secretary promulgates final regulations under paragraph (4), each State, in consultation with metropolitan planning organizations, shall establish targets that address each of the performance measures identified in paragraph (4)(A)(ii).

''(B) PERIODIC UPDATES.—Each State shall periodically update the targets established under subparagraph (A).

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

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

''(B) State targets that address the performance measures identified in paragraph (4)(B).

''(7) CERTIFICATION OF PLAN DEVELOPMENT PROCESS.—

''(A) IN GENERAL.—Not later than 90 days after the date on which a State submits a request for approval of the process used by the State to develop the State asset management plan for the National Highway System, the Secretary shall—

''(i) review the process; and

''(ii)(I) certify that the process meets the requirements established by the Secretary; or

''(II) deny certification and specify actions necessary for the State to take to correct deficiencies in the State process.

''(B) RECERTIFICATION.—Not less often than every 4 years, the Secretary shall review and recertify that the process used by a State to develop and maintain the State asset management plan for the National Highway System meets the requirements for the process, as established by the Secretary.

''(C) OPPORTUNITY TO CURE.—If the Secretary denies certification under subparagraph (A), the Secretary shall provide the State with—

''(i) not less than 90 days to cure the deficiencies of the plan, during which time period all penalties and other legal impacts of a denial of certification shall be stayed; and

''(ii) a written statement of the specific actions the Secretary determines to be necessary for the State to cure the plan.

''(8) PERFORMANCE REPORTS.—

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

''(i) the condition and performance of the National Highway System in the State;

''(ii) progress in achieving State targets for each of the performance measures for the National Highway System; and

''(iii) the effectiveness of the investment strategy documented in the State asset management plan for the National Highway System.

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

''(9) PROCESS.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary shall, by regulation and in consultation with State departments of transportation, establish the process to develop the State asset management plan described in paragraph (1) and establish the standards and measures described in paragraph (4).

''(g) INTERSTATE SYSTEM AND NHS BRIDGE CONDITIONS.—

''(1) CONDITION OF INTERSTATE SYSTEM.—

''(A) PENALTY.—If, during 2 consecutive reporting periods, the condition of the Interstate System, excluding bridges on the Interstate System, in a State falls below the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv), the State shall be required, during the following fiscal year—

''(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount that is not less than the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP–21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

''(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the Interstate maintenance program for the purposes described in this section (as in effect on the day before the date of enactment of the MAP–21).

''(B) RESTORATION.—The obligation requirement for the Interstate System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of the Interstate System in the State exceeds the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv).

''(2) CONDITION OF NHS BRIDGES.—

''(A) PENALTY.—If, during 2 consecutive reporting periods, the condition of bridges on the National Highway System in a State falls below the minimum condition level established by the Secretary under subsection

(f)(4)(A)(iv), the State shall be required, during the following fiscal year—

''(i) to obligate, from the amounts apportioned to the State under section 104(b)(1), an amount for bridges on the National Highway System that is not less than 50 percent of the amount of funds apportioned to the State for fiscal year 2009 under the highway bridge program for the purposes described in section 144 (as in effect on the day before the date of enactment of the MAP–21), except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year; and

''(ii) to transfer, from the amounts apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) to the apportionment of the State under section 104(b)(1), an amount equal to 10 percent of the amount of funds apportioned to the State for fiscal year 2009 under the highway bridge program for the purposes described in section 144 (as in effect on the day before the date of enactment of the MAP–21).

''(B) RESTORATION.—The obligation requirement for bridges on the National Highway System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of bridges on the National Highway System in the State exceeds the minimum condition level established by the Secretary under subsection (f)(4)(A)(iv).''.

(b) TRANSITION PERIOD.—

(1) IN GENERAL.—Except as provided in paragraph (2), until such date as a State has in effect an approved asset management plan and has established performance targets as described in section 119 of title 23, United States Code, that will contribute to achieving the national goals for the condition and performance of the National Highway System, but not later than 18 months after the date on which the Secretary promulgates final regulations required under section 119(f)(4) of that title, the Secretary shall approve obligations of funds apportioned to a State to carry out the national highway performance program under section 119 of that title, for projects that otherwise meet the requirements of that section.

(2) EXTENSION.—The Secretary may extend the transition period for a State under paragraph (1) if the Secretary determines that the State has made a good faith effort to establish an asset management plan and performance targets referred to in that paragraph.

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

''119. National highway performance program.''.

SEC. 1107. EMERGENCY RELIEF.

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

''§ 125. Emergency relief

''(a) IN GENERAL.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any area of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

''(1) a natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

''(2) catastrophic failure from any external cause.

''(b) RESTRICTION ON ELIGIBILITY.—

''(1) DEFINITION OF CONSTRUCTION PHASE.—In this subsection, the term 'construction phase' means the phase of physical construction of a highway or bridge facility that is separate from any other identified phases, such as planning, design, or right-of-way phases, in the State transportation improvement program.

''(2) RESTRICTION.—In no case shall funds be used under this section for the repair or reconstruction of a bridge—

''(A) that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration; or

''(B) if a construction phase of a replacement structure is included in the approved Statewide transportation improvement program at the time of an event described in subsection (a).

''(c) FUNDING.—

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

''(2) LIMITATIONS.—The limitations referred to in paragraph (1) are that—

''(A) not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out this section, except that, if for any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated for the fiscal year, the unobligated balance of that amount shall—

''(i) remain available until expended; and

''(ii) be in addition to amounts otherwise available to carry out this section for each year; and

''(B)(i) pending such appropriation or replenishment, the Secretary may obligate from any funds appropriated at any time for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as are necessary for the immediate prosecution of the work herein authorized; and

''(ii) funds obligated under this subparagraph shall be reimbursed from the appropriation or replenishment.

''(d) ELIGIBILITY.—

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

''(A) no funds shall be so expended unless an emergency has been declared by the Governor of the State with concurrence by the Secretary, unless the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for which concurrence of the Secretary is not required; and

''(B) the Secretary has received an application from the State transportation department that includes a comprehensive list of all eligible project sites and repair costs by not later than 2 years after the natural disaster or catastrophic failure.

''(2) COST LIMITATION.—

''(A) DEFINITION OF COMPARABLE FACILITY.—In this paragraph, the term 'comparable facility' means a facility that meets the current geometric and construction standards required for a facility of comparable capacity and character to the destroyed facility, except a bridge facility which may be constructed for the type and volume of traffic that the bridge will carry over its design life.

''(B) LIMITATION.—The total cost of a project funded under this section may not exceed the cost of repair or reconstruction of a comparable facility.

''(3) TERRITORIES.—The total obligations for projects under this section for any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed $20,000,000.

''(4) SUBSTITUTE TRAFFIC.—Notwithstanding any other provision of this section, actual and necessary costs of maintenance and operation of ferryboats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged for comparable service, may be expended from the emergency fund authorized by this section for Federal-aid highways.

''(e) TRIBAL TRANSPORTATION FACILITIES, FEDERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC ROADS ON FEDERAL LANDS.—

''(1) DEFINITION OF OPEN TO PUBLIC TRAVEL.—In this subsection, the term 'open to public travel' means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road is open to the general public for use with a standard passenger vehicle, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

''(2) EXPENDITURE OF FUNDS.—Notwithstanding subsection (d)(1), the Secretary may expend funds from the emergency fund authorized by this section, independently or in cooperation with any other branch of the Federal Government, a State agency, a tribal government, an organization, or a person, for the repair or reconstruction of tribal transportation facilities, Federal lands transportation facilities, and other federally owned roads that are open to public travel, whether or not those facilities are Federal-aid highways.

''(3) REIMBURSEMENT.—

''(A) IN GENERAL.—The Secretary may reimburse Federal and State agencies (including political subdivisions) for expenditures made for projects determined eligible under this section, including expenditures for emergency repairs made before a determination of eligibility.

''(B) TRANSFERS.—With respect to reimbursements described in subparagraph (A)—

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

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

''(f) TREATMENT OF TERRITORIES.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each such territory shall be considered to be a Governor of a State.''.

SEC. 1108. TRANSPORTATION MOBILITY PROGRAM.

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

''§ 133. Transportation mobility program

''(a) ESTABLISHMENT.—The Secretary shall establish and implement a transportation mobility program under this section.

''(b) PURPOSE.—The purpose of the transportation mobility program shall be to assist

States and localities in improving the conditions and performance on Federal-aid highways and on bridges on any public road.

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

''(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements for highways, including construction of designated routes of the Appalachian development highway system and local access roads under section 14501 of title 40, United States Code.

''(2) Replacement (including replacement with fill material), rehabilitation, preservation, protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions for bridges (and approaches to bridges and other elevated structures) and tunnels on public roads of all functional classifications, including any such construction or reconstruction necessary to accommodate other transportation modes.

''(3) Construction of a new bridge or tunnel on a new location on a highway, including any such construction necessary to accommodate other transportation modes.

''(4) Inspection and evaluation (within the meaning of section 144) of bridges and tunnels on public roads of all functional classifications and inspection and evaluation of other highway infrastructure assets, including signs and sign structures, retaining walls, and drainage structures.

''(5) Training of bridge and tunnel inspectors (within the meaning of section 144).

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

''(7) Carpool projects, fringe and corridor parking facilities and programs, including electric vehicle infrastructure in accordance with section 137, bicycle transportation and pedestrian walkways in accordance with section 217, and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

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

''(9) Highway and transit research and development and technology transfer programs.

''(10) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs, including truck stop electrification systems.

''(11) Projects and strategies designed to support congestion pricing, including electronic toll collection and travel demand management strategies and programs.

''(12) Surface transportation planning.

''(13) Transportation enhancement activities.

''(14) Recreational trails projects eligible for funding under section 206.

''(15) Construction of ferry boats and ferry terminal facilities eligible for funding under section 129(c).

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

''(17) Projects , programs, and technical assistance associated with National Scenic Byways, All-American Roads, and America's Byways eligible for funding under section 162.

''(18) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

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

''(20) Transportation control measures described in section 108(f)(1)(A) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)), other than section 108(f)(1)(A)(xvi) of that Act.

''(21) Development and implementation of a State asset management plan for the National Highway System in accordance with section 119, including data collection, maintenance, and integration and the costs associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management, and for similar activities relating to the development and implementation of a performance-based management program for other public roads.

''(22) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

''(A) contributions to those mitigation efforts may—

''(i) take place concurrent with or in advance of project construction; and

''(ii) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

''(B) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

''(23) Infrastructure-based intelligent transportation systems capital improvements.

''(24) Environmental restoration and pollution abatement in accordance with section 328.

''(25) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.

''(26) Improvements to a freight railroad, marine highway, or intermodal facility, but only to the extent that the Secretary concurs with the State that—

''(A) the project will make significant improvement to freight movements on the national freight network;

''(B) the public benefit of the project exceeds the Federal investment; and

''(C) the project provides a better return than a highway project on a segment of the primary freight network, except that a State may not obligate in excess of 5 percent of funds apportioned to the State under section 104(b)(2) to carry out this section for that purpose.

''(27) Maintenance of and improvements to all public roads, including non-State-owned public roads and roads on tribal land—

''(A) that are located within 10 miles of the international border between the United States and Canada or Mexico; and

''(B) on which federally owned vehicles comprise more than 50 percent of the traffic.

''(28) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, any public road if—

''(A) the public road, and the highway project to be carried out with respect to the public road, are in the same corridor as, and in proximity to—

''(i) a fully access-controlled highway designated as a part of the National Highway System; or

''(ii) in areas with a population of less than 200,000, a federal-aid highway designated as part of the National Highway System;

''(B) the construction or improvements will enhance the level of service on the highway described in subparagraph (A) and improve regional traffic flow; and

''(C) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the highway described in subparagraph (A).

''(d) ALLOCATIONS OF APPORTIONED FUNDS TO AREAS BASED ON POPULATION.—

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

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

''(i) in urbanized areas of the State with an urbanized area population of over 200,000;

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

''(iii) in other areas of the State; and

''(B) 50 percent may be obligated in any area of the State.

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

''(3) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

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

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

''(e) LOCATION OF PROJECTS.—Except as provided in subsection (g) and for projects described in paragraphs (2), (4), (7), (8), (13), (14), and (19) of subsection (c), for local access roads under section 14501 of title 40, United States Code, transportation mobility program projects may not be undertaken on roads functionally classified as local or rural minor collectors.

''(f) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with sections 134 and 135.

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

''(1) DEFINITION OF OFF-SYSTEM BRIDGE.—The term 'off-system bridge' means a highway bridge located on a public road, other than a bridge on a Federal-aid highway.

''(2) SPECIAL RULE.—

''(A) PENALTY.—If the total deck area of deficient off-system bridges in a State increases for the 2 most recent consecutive years, the State shall be required, during the following fiscal year, to obligate for the improvement of deficient off-system bridges from the amounts apportioned to the State under section 104(b)(2) an amount that is not less than 110 percent of the amount of funds required to be obligated by the State for off-system bridges for fiscal year 2009 under section 144(f)(2), as in effect on the day before the date of enactment of the MAP–21, except that for each year after fiscal year 2013, the amount required to be obligated under this subparagraph shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year.

''(B) RESTORATION.—The obligation requirement for off-system bridges in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the total deck area of deficient off-system bridges in the State has decreased to the level it was in the State for the fiscal year prior to the establishment of the obligation requirement for the State under subparagraph (A).

''(3) CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge that is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the Secretary upon completion to be no longer a deficient bridge—

''(A) any amount expended after the date of enactment of this subsection from State and local sources for the project in excess of 20 percent of the cost of construction of the project may be credited to the non-Federal share of the cost of other bridge projects in the State that are eligible for Federal funds under this section; and

''(B) that crediting shall be conducted in accordance with procedures established by the Secretary.''

''(h) ADMINISTRATION.—

''(1) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

''(A) certifies that the State will meet all the requirements of this section; and

''(B) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

''(2) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations referred to in paragraph (1)(B) as the State determines to be necessary.

''(3) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under paragraph (1) shall be deemed a contractual obligation of the United States to pay transportation mobility program funds made available under this title.

''(i) OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—A State that is required to obligate, in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d), funds apportioned to the State under section 104(b)(2) shall make available during the fiscal year an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the product obtained by multiplying—

''(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during the period; and

''(B) the ratio that—

''(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

''(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

''(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).''.

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

''133. Transportation mobility program.''.

SEC. 1109. WORKFORCE DEVELOPMENT.

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

(1) by striking ''Whenever apportionments are made under section 104(b)(3),'' and inserting ''From administrative funds made available under section 104(a),''; and

(2) by striking ''the surface transportation program under section 104(b) and the bridge program under section 144'' and inserting ''the transportation mobility program under section 104(b)''.

(b) DISADVANTAGED BUSINESS ENTERPRISE.—Section 140(c) of title 23, United States Code, is amended by striking ''Whenever apportionments are made under section 104(b)(3),'' and inserting ''From administrative funds made available under section 104(a),''.

SEC. 1110. HIGHWAY USE TAX EVASION PROJECTS.

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

(1) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

''(2) FUNDING.—

''(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary shall deduct such sums as are necessary, not to exceed $10,000,000 for each of fiscal years 2012 and 2013, to carry out this section.

''(B) ALLOCATION OF FUNDS.—Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary, except that of funds so made available for each fiscal year, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.''; and

(B) in paragraph (8)—

(i) in the paragraph heading by striking ''SURFACE TRANSPORTATION PROGRAM'' and inserting ''TRANSPORTATION MOBILITY PROGRAM''; and

(ii) by striking ''section 104(b)(3)'' and inserting ''section 104(b)(2)''; and

(2) in subsection (c)(3) by striking ''for each of fiscal years 2005 through 2009,'' and inserting ''for each fiscal year,''.

SEC. 1111. NATIONAL BRIDGE AND TUNNEL INVENTORY AND INSPECTION STANDARDS.

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

''§ 144. National bridge and tunnel inventory and inspection standards

''(a) FINDINGS AND DECLARATIONS.—

''(1) FINDINGS.—Congress finds that—

''(A) the condition of the bridges of the United States has improved since the date of enactment of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107), yet continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on which the economy of the United States relies; and

''(B) the systematic preventative maintenance of bridges, and replacement and rehabilitation of deficient bridges, should be undertaken through an overall asset management approach to transportation investment.

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

''(A) to inventory, inspect, and improve the condition of the highway bridges and tunnels of the United States;

''(B) to use a data-driven, risk-based approach and cost-effective strategy for systematic preventative maintenance, replacement, and rehabilitation of highway bridges and tunnels to ensure safety and extended service life;

''(C) to use performance-based bridge management systems to assist States in making timely investments;

''(D) to ensure accountability and link performance outcomes to investment decisions; and

''(E) to ensure connectivity and access for residents of rural areas of the United States through strategic investments in National Highway System bridges and bridges on all public roads.

''(b) NATIONAL BRIDGE AND TUNNEL INVENTORIES.—

''(1) IN GENERAL.—The Secretary, in consultation with the States, shall—

''(A) inventory all highway bridges on public roads that are bridges over waterways, other topographical barriers, other highways, and railroads;

''(B) classify the bridges according to serviceability, safety, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished; and

''(C) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.

''(2) TRIBALLY OWNED AND FEDERALLY OWNED BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretaries of appropriate Federal agencies, shall—

''(A) inventory all tribally owned and Federally owned highway bridges that are open to the public, over waterways, other topographical barriers, other highways, and railroads;

''(B) classify the bridges according to serviceability, safety, and essentiality for public use; and

''(C) based on the classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.

''(3) TUNNELS.—The Secretary shall establish a national inventory of highway tunnels reflecting the findings of the most recent highway tunnel inspections conducted by States under this section.

''(c) GENERAL BRIDGE AUTHORITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this title.

''(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters that—

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

''(B) are—

''(i) not tidal; or

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

''(d) INVENTORY UPDATES AND REPORTS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) annually revise the inventories authorized by subsection (b); and

''(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the inventories.

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

''(3) GUIDANCE.—The Secretary shall provide guidance to States and Federal agencies for implementation of this subsection, while respecting the existing inspection schedule of each State.

''(4) BRIDGES NOT ON NATIONAL HIGHWAY SYSTEM.—The Secretary shall—

''(A) conduct a study on the benefits, cost-effectiveness, and feasibility of requiring element-level data collection for bridges not on the National Highway System; and

''(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.

''(e) BRIDGES WITHOUT TAXING POWERS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this title, but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system.

''(2) INSUFFICIENT ASSETS.—Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the bridge project or activity eligible for assistance under this title.

''(3) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

''(f) REPLACEMENT OF DESTROYED BRIDGES AND FERRY BOAT SERVICE.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a State may use the funds apportioned under section 104(b)(2) to construct any bridge that replaces—

''(A) any low water crossing (regardless of the length of the low water crossing);

''(B) any bridge that was destroyed prior to January 1, 1965;

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

''(D) any road bridge that is rendered obsolete as a result of a Corps of Engineers flood control or channelization project and is not rebuilt with funds from the Corps of Engineers.

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

''(g) HISTORIC BRIDGES.—

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

''(2) COORDINATION.—The Secretary shall, in cooperation with the States, encourage the retention, rehabilitation, adaptive reuse, and future study of historic bridges.

''(3) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine the historic significance of the bridges.

''(4) ELIGIBILITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of a historic bridge shall be eligible as reimbursable project costs under section 133 if the load capacity and safety features of the historic bridge are adequate to serve the intended use for the life of the historic bridge.

''(B) BRIDGES NOT USED FOR VEHICLE TRAFFIC.—In the case of a historic bridge that is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this chapter shall not exceed the estimated cost of demolition of the historic bridge.

''(5) PRESERVATION.—Any State that proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the historic bridge available for donation to a State, locality, or responsible private entity if the State, locality, or responsible entity enters into an agreement—

''(A) to maintain the bridge and the features that give the historic bridge its historic significance; and

''(B) to assume all future legal and financial responsibility for the historic bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

''(6) COSTS INCURRED.—

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

''(B) ADDITIONAL FUNDING.—Any bridge preserved pursuant to this paragraph shall not be eligible for any other funds authorized pursuant to this title.

''(h) NATIONAL BRIDGE AND TUNNEL INSPECTION STANDARDS.—

''(1) REQUIREMENT.—

''(A) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper inspection and evaluation of all highway bridges and tunnels for safety and serviceability.

''(B) UNIFORMITY.—The standards under this subsection shall be designed to ensure uniformity of the inspections and evaluations.

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

''(A) specify, in detail, the method by which the inspections shall be carried out by the States, Federal agencies, and tribal governments;

''(B) establish the maximum time period between inspections;

''(C) establish the qualifications for those charged with carrying out the inspections;

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

''(i) written reports on the results of highway bridge and tunnel inspections and notations of any action taken pursuant to the findings of the inspections; and

''(ii) current inventory data for all highway bridges and tunnels reflecting the findings of the most recent highway bridge and tunnel inspections conducted; and

''(E) establish a procedure for national certification of highway bridge inspectors and tunnel inspectors.

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

''(A) establish, in consultation with the States, and interested and knowledgeable private organizations and individuals, procedures to conduct reviews of State compliance with—

''(i) the standards established under this subsection; and

''(ii) the calculation or reevaluation of bridge load ratings; and

''(B) establish, in consultation with the States, and interested and knowledgeable private organizations and individuals, procedures for States to follow in reporting to the Secretary—

''(i) critical findings relating to structural or safety-related deficiencies of highway bridges; and

''(ii) monitoring activities and corrective actions taken in response to a critical finding.

''(4) REVIEWS OF STATE COMPLIANCE.—

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

''(B) NONCOMPLIANCE.—If an annual review in accordance with subparagraph (A) identifies noncompliance by a State, the Secretary shall—

''(i) issue a report detailing the issues of the noncompliance by December 31 of the calendar year in which the review was made; and

''(ii) provide the State an opportunity to address the noncompliance by—

''(I) developing a corrective action plan to remedy the noncompliance; or

''(II) resolving the issues of noncompliance not later than 45 days after the date of notification.

''(5) PENALTY FOR NONCOMPLIANCE.—

''(A) IN GENERAL.—If a State fails to satisfy the requirements of paragraph (4)(B) by August 1 of the calendar year following the year of a finding of noncompliance, the Secretary shall, on October 1 of that year, and each year thereafter as may be necessary, require the State to dedicate funds apportioned to the State under sections 119 and 133 after the date of enactment of the MAP–21 to correct the noncompliance with the minimum inspection standards established under this subsection.

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

''(i) be determined by the State based on an analysis of the actions needed to address the noncompliance; and

''(ii) require approval by the Secretary.

''(6) UPDATE OF STANDARDS.—Not later than 3 years after the date of enactment of the MAP–21, the Secretary shall update inspection standards to cover—

''(A) the methodology, training, and qualifications for inspectors; and

''(B) the frequency of inspection.

''(7) RISK-BASED APPROACH.—In carrying out the revisions required by paragraph (6), the Secretary shall consider a risk-based approach to determining the frequency of bridge inspections.

''(i) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—

''(1) IN GENERAL.—The Secretary, in cooperation with the State transportation departments, shall maintain a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

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

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

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

''144. National bridge and tunnel inventory and inspection standards.''.

SEC. 1112. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

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

''§ 148. Highway safety improvement program

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

''(1) HIGH RISK RURAL ROAD.—The term 'high risk rural road' means any roadway functionally classified as a rural major or minor collector or a rural local road with significant safety risks, as defined by a State in accordance with an updated State strategic highway safety plan.

''(2) HIGHWAY BASEMAP.—The term 'highway basemap' means a representation of all public roads that can be used to geolocate attribute data on a roadway.

''(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means projects, activities, plans, and reports carried out under this section.

''(4) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

''(A) IN GENERAL.—The term 'highway safety improvement project' means strategies, activities, and projects on a public road that are consistent with a State strategic highway safety plan and—

''(i) correct or improve a hazardous road location or feature; or

''(ii) address a highway safety problem.

''(B) INCLUSIONS.—The term 'highway safety improvement project' includes, but is not limited to, a project for 1 or more of the following:

''(i) An intersection safety improvement.

''(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).

''(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.

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

''(v) An improvement for pedestrian or bicyclist safety or safety of persons with disabilities.

''(vi) Construction and improvement of a railway-highway grade crossing safety feature, including installation of protective devices.

''(vii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

''(viii) Construction of a traffic calming feature.

''(ix) Elimination of a roadside hazard.

''(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.

''(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

''(xii) Installation of a traffic control or other warning device at a location with high crash potential.

''(xiii) Transportation safety planning.

''(xiv) Collection, analysis, and improvement of safety data.

''(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

''(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

''(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.

''(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

''(xix) Construction and operational improvements on high risk rural roads.

''(xx) Geometric improvements to a road for safety purposes that improve safety.

''(xxi) A road safety audit.

''(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Highway Design Handbook for Older Drivers and Pedestrians' (FHWA-RD-01-103), dated May 2001 or as subsequently revised and updated.

''(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

''(xxiv) Systemic safety improvements.

''(5) MODEL INVENTORY OF ROADWAY ELEMENTS.—The term 'model inventory of roadway elements' means the listing and standardized coding by the Federal Highway Administration of roadway and traffic data elements critical to safety management, analysis, and decisionmaking.

''(6) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term 'project to maintain minimum levels of retroreflectivity' means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

''(7) ROAD SAFETY AUDIT.—The term 'road safety audit' means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

''(8) ROAD USERS.—The term 'road user' means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

''(9) SAFETY DATA.—

''(A) IN GENERAL.—The term 'safety data' means crash, roadway, and traffic data on a public road.

''(B) INCLUSION.—The term 'safety data' includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.

''(10) SAFETY PROJECT UNDER ANY OTHER SECTION.—

''(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

''(B) INCLUSION.—The term 'safety project under any other section' includes—

''(i) a project consistent with the State strategic highway safety plan that promotes the awareness of the public and educates the public concerning highway safety matters (including motorcycle safety);

''(ii) a project to enforce highway safety laws; and

''(iii) a project to provide infrastructure and infrastructure-related equipment to support emergency services.

''(11) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).

''(12) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a comprehensive plan, based on safety data, developed by a State transportation department that—

''(A) is developed after consultation with—

''(i) a highway safety representative of the Governor of the State;

''(ii) regional transportation planning organizations and metropolitan planning organizations, if any;

''(iii) representatives of major modes of transportation;

''(iv) State and local traffic enforcement officials;

''(v) a highway-rail grade crossing safety representative of the Governor of the State;

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

''(vii) motor vehicle administration agencies;

''(viii) county transportation officials;

''(ix) State representatives of nonmotorized users; and

''(x) other major Federal, State, tribal, and local safety stakeholders;

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

''(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

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

''(E) considers the results of State, regional, or local transportation and highway safety planning processes;

''(F) describes a program of strategies to reduce or eliminate safety hazards;

''(G) is approved by the Governor of the State or a responsible State agency;

''(H) is consistent with section 135(g); and

''(I) is updated and submitted to the Secretary for approval as required under subsection (d)(2).

''(13) SYSTEMIC SAFETY IMPROVEMENT.—The term 'systemic safety improvement' means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

''(b) PROGRAM.—

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

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

''(c) ELIGIBILITY.—

''(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(3) to carry out this section, a State shall have in effect a

State highway safety improvement program under which the State—

''(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in subsections (a)(12) and (d);

''(B) produces a program of projects or strategies to reduce identified safety problems; and

''(C) evaluates the strategic highway safety plan on a regularly recurring basis in accordance with subsection (d)(1) to ensure the accuracy of the data and priority of proposed strategies.

''(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program, a State shall—

''(A) have in place a safety data system with the ability to perform safety problem identification and countermeasure analysis—

''(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

''(ii) to evaluate the effectiveness of data improvement efforts;

''(iii) to link State data systems, including traffic records, with other data systems within the State;

''(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

''(v) to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances; and

''(vi) to improve the collection of data on nonmotorized crashes;

''(B) based on the analysis required by subparagraph (A)—

''(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users;

''(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of crashes (including crash rates), fatalities, serious injuries, traffic volume levels, and other relevant data;

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

''(iv) identify highway safety improvement projects on the basis of crash experience, crash potential, crash rate, or other data-supported means; and

''(v) consider which projects maximize opportunities to advance safety;

''(C) adopt strategic and performance-based goals that—

''(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

''(ii) focus resources on areas of greatest need; and

''(iii) are coordinated with other State highway safety programs;

''(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

''(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

''(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

''(iii) identifies hazardous locations, sections, and elements on all public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users;

''(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes (including crash rate), serious injuries, fatalities, and traffic volume levels; and

''(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the State with a breakdown by functional classification and ownership in the State;

''(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through safety data analysis;

''(ii) identify opportunities for preventing the development of such hazardous conditions; and

''(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

''(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

''(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

''(d) UPDATES TO STRATEGIC HIGHWAY SAFETY PLANS.—

''(1) ESTABLISHMENT OF REQUIREMENTS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

''(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

''(i) the findings of road safety audits;

''(ii) the locations of fatalities and serious injuries;

''(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

''(iv) rural roads, including all public roads, commensurate with fatality data;

''(v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;

''(vi) the cost-effectiveness of improvements;

''(vii) improvements to rail-highway grade crossings; and

''(viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

''(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

''(A) IN GENERAL.—Each State shall—

''(i) update the strategic highway safety plans of the State in accordance with the requirements established by the Secretary under this subsection; and

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

''(B) REQUIREMENTS FOR APPROVAL.—The Secretary shall not approve the process for an updated strategic highway safety plan unless—

''(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and subsection (a)(12); and

''(ii) the process used is consistent with the requirements of this subsection.

''(3) PENALTY FOR FAILURE TO HAVE AN APPROVED UPDATED STRATEGIC HIGHWAY SAFETY PLAN.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the fiscal year beginning after the date of establishment of the requirements under paragraph (1)—

''(A) the State shall not be eligible to receive any additional limitation pursuant to the redistribution of the limitation on obligations for Federal-aid highway and highway safety construction programs that occurs after August 1 for each succeeding fiscal year until the fiscal year during which the plan is approved; and

''(B) the Secretary shall, on October 1 of each fiscal year thereafter, transfer from funds apportioned to the State under section 104(b)(2) (other than amounts suballocated to metropolitan areas and other areas of the State under section 133(d)) an amount equal to 10 percent of the funds so apportioned for the fiscal year for use under the highway safety improvement program under this section to the apportionment of the State under section 104(b)(3) until the fiscal year in which the plan is approved.

''(e) ELIGIBLE PROJECTS.—

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

''(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

''(B) as provided in subsection (f), other safety projects.

''(2) USE OF OTHER FUNDING FOR SAFETY.—

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

''(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of the safety needs and opportunities of the States by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

''(f) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

''(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 10 percent of the amount of funds apportioned to the State under section 104(b)(3) for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan if the State certifies that—

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

''(B) the funds are being used for the most effective projects to make progress toward achieving the safety performance targets of the State.

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

''(g) DATA IMPROVEMENT.—

''(1) DEFINITION OF DATA IMPROVEMENT ACTIVITIES.—In this subsection:

''(A) IN GENERAL.—The term 'data improvement activities' means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

''(B) INCLUSIONS.—The term 'data improvement activities' includes a project or activity—

''(i) to create, update, or enhance a highway basemap of all public roads in a State;

''(ii) to collect safety data, including data identified as part of the model inventory of roadway elements, for creation of or use on

a highway basemap of all public roads in a State;

''(iii) to store and maintain safety data in an electronic manner;

''(iv) to develop analytical processes for safety data elements;

''(v) to acquire and implement roadway safety analysis tools; and

''(vi) to support the collection, maintenance, and sharing of safety data on all public roads and related systems associated with the analytical usage of that data.

''(2) APPORTIONMENT.—Of the funds apportioned to a State under section 104(b)(3) for a fiscal year—

''(A) not less than 8 percent of the funds apportioned for each of fiscal years 2012 through 2013 shall be available only for data improvement activities under this subsection; and

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

''(3) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project eligible under this section if the State demonstrates to the satisfaction of the Secretary that the State has met all of the State needs for data collection to support the State strategic highway safety plan and sufficiently addressed the data improvement activities described in paragraph (1).

''(4) MODEL INVENTORY OF ROADWAY ELEMENTS.—The Secretary shall—

''(A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and

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

''(h) PERFORMANCE MEASURES AND TARGETS FOR STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

''(1) ESTABLISHMENT OF PERFORMANCE MEASURES.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall issue guidance to States on the establishment, collection, and reporting of performance measures that reflect—

''(A) serious injuries and fatalities per vehicle mile traveled;

''(B) serious injuries and fatalities per capita; and

''(C) the number of serious injuries and fatalities

''(2) ESTABLISHMENT OF STATE PERFORMANCE TARGETS.—Not later than 1 year after the Secretary has issued guidance to States on the establishment, collection, and reporting of performance measures, each State shall set performance targets that reflect—

''(A) serious injuries and fatalities per vehicle mile traveled;

''(B) serious injuries and fatalities per capita; and

''(C) the number of serious injuries and fatalities.

''(i) SPECIAL RULES.—

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

''(2) RAIL-HIGHWAY GRADE CROSSINGS.—If the average number of fatalities at rail-highway grade crossings in a State over the most recent 2-year period for which data are available increases over the average number of fatalities during the preceding 2-year period, that State shall be required to obligate in the next fiscal year for projects on rail-highway grade crossings an amount equal to 120 percent of the amount of funds the State received for fiscal year 2009 for rail-highway grade crossings under section 130(f) (as in effect on the day before the date of enactment of the MAP–21).

''(3) OLDER DRIVERS.—If traffic fatalities and serious injuries per capita for drivers and pedestrians over the age of 65 in a State increases during the most recent 2-year period for which data are available, that State shall be required to include, in the subsequent Strategic Highway Safety Plan of the State, strategies to address the increases in those rates, taking into account the recommendations included in the publication of the Federal Highway Administration entitled 'Highway Design Handbook for Older Drivers and Pedestrians' (FHWA-RD-01-103), and dated May 2001, or as subsequently revised and updated.

''(j) REPORTS.—

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

''(A) describes the progress being made to achieve the performance targets established under subsection (h);

''(B) describes progress being made to implement highway safety improvement projects under this section;

''(C) assesses the effectiveness of those improvements; and

''(D) describes the extent to which the improvements funded under this section have contributed to reducing—

''(i) the number and rate of fatalities on all public roads with, to the maximum extent practicable, a breakdown by functional classification and ownership in the State;

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

''(iii) the occurrences of fatalities and serious injuries at railway-highway crossings.

''(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for the submission of the report under paragraph (1).

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

''(A) the website of the Department; and

''(B) such other means as the Secretary determines to be appropriate.

''(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

''(k) STATE PERFORMANCE TARGETS.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State established under subsection (h) by the date that is 2 years after the date of the establishment of the performance targets, the State shall—

''(1) use obligation authority equal to the apportionment of the State for the prior year under section 104(b)(3) only for highway safety improvement projects under this section until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State; and

''(2) submit annually to the Secretary, until the Secretary determines that the State has met or made significant progress toward meeting the performance targets of the State, an implementation plan that—

''(A) identifies roadway features that constitute a hazard to road users;

''(B) identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means;

''(C) describes how highway safety improvement program funds will be allocated, including projects, activities, and strategies to be implemented;

''(D) describes how the proposed projects, activities, and strategies funded under the State highway safety improvement program will allow the State to make progress toward achieving the safety performance targets of the State; and

''(E) describes the actions the State will undertake to meet the performance targets of the State.

''(l) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.''.

SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

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

''§ 149. Congestion mitigation and air quality improvement program

''(a) ESTABLISHMENT.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

''(b) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—Except as provided in subsection (c), a State may obligate funds apportioned to the State for the congestion mitigation and air quality improvement program under section 104(b)(4) that are not reserved under subsection (l) only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under section 107(d) of that Act after December 31, 1997, or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.); and

''(A)(i)(I) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to subparagraph (A) of section 108(f)(1) of the Clean Air Act (other than clause (xvi) of that subparagraph) (42 U.S.C. 7408(f)(1)) that the project or program is likely to contribute to—

''(aa) the attainment of a national ambient air quality standard; or

''(bb) the maintenance of a national ambient air quality standard in a maintenance area; and

''(II) there exists a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or

''(ii) in any case in which such information is not available, if the Secretary, after such

consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

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

''(C) to establish or operate a traffic monitoring, management, and control facility or program, including truck stop electrification systems, if the Secretary, after consultation with the Administrator, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard;

''(D) if the program or project improves traffic flow, including projects to improve signalization, construct high-occupancy vehicle lanes, improve intersections, add turning lanes, improve transportation systems management and operations that mitigate congestion and improve air quality, and implement intelligent transportation system strategies and such other projects that are eligible for assistance under this section on the day before the date of enactment of the MAP–21, including programs or projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;

''(E) if the project or program involves the purchase of integrated, interoperable emergency communications equipment;

''(F) if the project or program is for—

''(i) the purchase of diesel retrofits that are—

''(I) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

''(II) verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)) for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

''(aa) located in nonattainment or maintenance areas for ozone, PM_{10}, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(bb) funded, in whole or in part, under this title; or

''(ii) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel retrofits;

''(G) if the project involves the installation of battery charging or replacement facilities for electric-drive vehicles, or refueling facilities for alternative-fuel vehicles;

''(H) if the project or program shifts traffic demand to nonpeak hours or other transportation modes, increases vehicle occupancy rates, or otherwise reduces demand for roads through such means as telecommuting, ridesharing, carsharing, alternative work hours, and pricing; or

''(I) if the Secretary, after consultation with the Administrator, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors.

''(2) LIMITATIONS.—Funds apportioned to a State under section 104(b)(4) and not reserved under subsection (l) may not be obligated for a project that will result in the construction of new capacity available to single-occupant vehicles unless the project consists of a high-occupancy vehicle facility available to single-occupant vehicles only at other than peak travel times or such use by single-occupant vehicles at peak travel times is subject to a toll.

''(3) USE OF FUNDS FOR OTHER ACTIVITIES.—Notwithstanding paragraph (1) and subsection (c), the Secretary may permit a State to use amounts apportioned to the State for each of fiscal years 2012 and 2013 for the congestion mitigation and air quality improvement program under section 104(b)(4) to carry out any activity on a system that was eligible for funding under that program as in effect on December 31, 2010.

''(c) STATES FLEXIBILITY.—

''(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone, carbon monoxide, or $PM_{2.5}$, the State may use funds apportioned to the State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) for any project in the State that—

''(A) would otherwise be eligible under subsection (b) as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the transportation mobility program under section 133.

''(2) STATES WITH A NONATTAINMENT AREA.—

''(A) IN GENERAL.—If a State has a nonattainment area or maintenance area and received funds in fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, above the amount of funds that the State would have received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21, the State may use for any project that is eligible under the transportation mobility program under section 133 an amount of funds apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) that is equal to the product obtained by multiplying—

''(i) the amount apportioned to such State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)); by

''(ii) the ratio calculated under paragraph (B).

''(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as—

''(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP–21; bears to

''(ii) the total apportionment to such State for fiscal year 2009 under section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21.

''(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.

''(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135.

''(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out with funds apportioned under section 104(b)(4).

''(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

''(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

''(B) cost sharing of any project expense;

''(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

''(D) any other form of participation approved by the Secretary.

''(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(4) to an entity described in paragraph (1).

''(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

''(A) may include the costs of vehicle refueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

''(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

''(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

''(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

''(f) PRIORITY CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for $PM_{2.5}$ under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) not required to be reserved under subsection (l) to projects that are proven to reduce $PM_{2.5}$, including diesel retrofits.

''(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.

''(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

''(1) DATABASE.—

''(A) IN GENERAL.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects, including specific information about each project, such as the project name, location, sponsor, cost, and, to the extent already measured by the project sponsor, cost-effectiveness, based on reductions in congestion and emissions.

''(B) AVAILABILITY.—The database shall be published or otherwise made readily available by the Secretary in electronically accessible format and means, such as the Internet, for public review.

''(2) COST EFFECTIVENESS.—

''(A) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate projects on a periodic basis and develop a table or other similar medium that illustrates the cost-effectiveness of a range of project types eligible for funding under this section as to how the projects mitigate congestion and improve air quality.

''(B) CONTENTS.—The table described in subparagraph (A) shall show measures of cost-effectiveness, such as dollars per ton of emissions reduced, and assess those measures over a variety of timeframes to capture impacts on the planning timeframes outlined in section 134.

''(C) USE OF TABLE.—States and metropolitan planning organizations shall consider the information in the table when selecting projects or developing performance plans under subsection (k).

''(i) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

''(1) IN GENERAL.—At the discretion of a metropolitan planning organization, a technical assessment of a selected program of projects may be conducted through modeling or other means to demonstrate the emissions reduction projection required under this section.

''(2) APPLICABILITY.—If an assessment described in paragraph (1) successfully demonstrates an emissions reduction, all projects included in such assessment shall be eligible for obligation under this section without further demonstration of emissions reduction of individual projects included in such assessment.

''(j) SUBALLOCATION TO NONATTAINMENT AND MAINTENANCE AREAS.—

''(1) IN GENERAL.—An amount equal to 50 percent of the amount of funds apportioned to each State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) shall be suballocated for projects within each area designated as nonattainment or maintenance for the pollutants described in subsection (b).

''(2) DISTRIBUTION OF FUNDS.—The distribution within any State of funds required to be suballocated under paragraph (1) to each nonattainment or maintenance area shall be in accordance with a formula developed by each State and approved by the Secretary, which shall consider the population of each such nonattainment or maintenance area and shall be weighted by the severity of pollution in the manner described in paragraph (6).

''(3) PROJECT SELECTION.—Projects under this subsection shall be selected by a State and shall be consistent with the requirements of sections 134 and 135.

''(4) PRIORITY FOR USE OF SUBALLOCATED FUNDS IN $PM_{2.5}$ AREAS.—

''(A) IN GENERAL.—An amount equal to 50 percent of the funds suballocated under paragraph (1) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that reduce such fine particulate matter emissions in such area, including diesel retrofits.

''(B) CONSTRUCTION EQUIPMENT.—An amount equal to 30 percent of the funds required to be set aside under subparagraph (A) shall be obligated to carry out the objectives of section 330.

''(C) OBLIGATION PROCESS.—

''(i) IN GENERAL.—Each State or metropolitan planning organization required to obligate funds in accordance with this paragraph shall develop a process to provide funding directly to eligible entities (as defined under section 330) in order to achieve the objectives of such section and ensure that the bid proceeding and award of the contract for any covered highway construction project carried out under that section will be—

''(I) made without regard to the particulate matter emission levels of the fleet of the eligible entity; and

''(II) consistent with existing requirements for full and open competition under section 112.

''(ii) OBLIGATION.—A State may obligate suballocated funds designated under this paragraph without regard to any process or other requirement established under this section.

''(5) FUNDS NOT SUBALLOCATED.—Except as provided in subsection (c), funds apportioned to a State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) and not suballocated under paragraph (1) shall be made available to such State for programming in any nonattainment or maintenance area in the State.

''(6) FACTORS FOR CALCULATION OF SUBALLOCATION.—

''(A) IN GENERAL.—For the purposes of paragraph (2), each State shall weight the population of each such nonattainment or maintenance area by a factor of—

''(i) 1.0 if, at the time of the apportionment, the area is a maintenance area for ozone or carbon monoxide;

''(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

''(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

''(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

''(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

''(vi) 1.5 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

''(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area for ozone as described in section 149(b), but is designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment area for carbon monoxide;

''(viii) 1.0 if, at the time of the apportionment, the area is designated as nonattainment for ozone under section 107 of the Clean Air Act (42 U.S.C. 7407); or

''(ix) 1.2 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is designated as a nonattainment or maintenance area for fine particulate matter, 2.5 micrometers or less, under section 107 of the Clean Air Act (42 U.S.C. 7407).

''(B) OTHER FACTORS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment or maintenance area for carbon monoxide, or was designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment or maintenance area for particulate matter, 2.5 micrometers or less, or both, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi), or clause (viii), of subparagraph (A), shall be further multiplied by a factor of 1.2, or a second further factor of 1.2 if the area is designated as a nonattainment or maintenance area for both carbon monoxide and particulate matter, 2.5 micrometers or less.

''(7) EXCEPTIONS FOR CERTAIN STATES.—

''(A) A State without a nonattainment or maintenance area shall not be subject to the requirements of this subsection.

''(B) The amount of funds required to be set aside under paragraph (1) in a State that received a minimum apportionment for fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, shall be based on the amount of funds such State would otherwise have been apportioned under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) but for the minimum apportionment in fiscal year 2009.

''(k) PERFORMANCE PLAN.—

''(1) IN GENERAL.—Each tier I metropolitan planning organization (as defined in section 134) representing a nonattainment or maintenance area shall develop a performance plan that—

''(A) includes an area baseline level for traffic congestion and on-road mobile source emissions for which the area is in nonattainment or maintenance;

''(B) identifies air quality and traffic congestion target levels based on measures established by the Secretary; and

''(C) includes a description of projects identified for funding under this section and a description of how such projects will contribute to achieving emission and traffic congestion reduction targets.

''(2) UPDATED PLANS.—

''(A) IN GENERAL.—Performance plans shall be updated on the schedule required under paragraph (3).

''(B) CONTENTS.—An updated plan shall include a separate report that assesses the progress of the program of projects under the previous plan in achieving the air quality and traffic congestion targets of the previous plan.

''(3) RULEMAKING.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary shall promulgate regulations to implement this subsection that identify performance measures for traffic congestion and on-road mobile source emissions, timelines for performance plans, and requirements under this section for assessing the implementation of projects carried out under this section.

''(l) ADDITIONAL ACTIVITIES.—

''(1) RESERVATION OF FUNDS.—Of the funds apportioned to a State under section 104(b)(4), a State shall reserve the amount of funds attributable to the inclusion of the 10 percent of surface transportation program funds apportioned to such State for fiscal year 2009 in the formula under section 104(b)(4) for projects under this subsection.

''(2) ELIGIBLE PROJECTS.—A State may obligate the funds reserved under this subsection for any of the following projects or activities:

''(A) Transportation enhancements, as defined in section 101.

''(B) The recreational trails program under section 206.

''(C) The safe routes to school program under section 1404 of the SAFETEA-LU (23 U.S.C. 402 note; Public Law 109–59).

''(D) Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

''(3) ALLOCATIONS OF FUNDS.—

''(A) CALCULATION.—Of the funds reserved in a State under this subsection—

''(i) 50 percent for a fiscal year shall be obligated under this subsection to any eligible

entity in proportion to their relative shares of the population of the State—

''(I) in urbanized areas of the State with an urbanized area population of over 200,000;

''(II) in areas of the State other than urban areas with a population greater than 5,000; and

''(III) in other areas of the State; and

''(ii) 50 percent shall be obligated in any area of the State.

''(B) METROPOLITAN AREAS.—Funds attributed to an urbanized area under subparagraph (A)(i)(I) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

''(C) DISTRIBUTION AMONG URBANIZED AREAS OF OVER 200,000 POPULATION.—

''(i) IN GENERAL.—Except as provided in subparagraph (A)(ii), the amount of funds that a State is required to obligate under subparagraph (A)(i)(I) shall be obligated in urbanized areas described in subparagraph (A)(i)(I) based on the relative population of the areas.

''(ii) OTHER FACTORS.—The State may obligate the funds described in clause (i) based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to base the obligation on other factors and the Secretary grants the request.

''(D) ACCESS TO FUNDS.—

''(i) IN GENERAL.—Each State or metropolitan planning organization required to obligate funds in accordance with subparagraph (A) shall develop a competitive process to allow eligible entities to submit projects for funding that achieve the objectives of this subsection.

''(ii) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

''(I) a local government;

''(II) a regional transportation authority;

''(III) a transit agency;

''(IV) a natural resource or public land agency;

''(V) a school district, local education agency, or school; and

''(VI) any other local or regional governmental entity with responsibility for or oversight of transportation or recreational trails (other than a tier I metropolitan planning organization or a State agency) that the State determines to be eligible, consistent with the goals of this subsection.

''(E) SELECTION OF PROJECTS.—Each tier I and tier II metropolitan planning organization shall select projects carried out within the boundaries of the applicable metropolitan planning area, in consultation with the relevant State, for funds reserved in a State under this subsection and suballocated to the metropolitan planning area under subparagraph (A)(i).

''(4) FLEXIBILITY OF EXCESS RESERVED FUNDING.—Beginning in the second fiscal year after the date of enactment of the MAP–21, if on August 1 of that fiscal year the unobligated balance of available funds apportioned to a State under section 104(b)(4) and reserved by a State under this subsection exceeds 150 percent of such reserved amount in such fiscal year, the State may thereafter obligate the amount of excess funds for any activity—

''(A) that is eligible to receive funding under this subsection; or

''(B) for which the Secretary has approved the obligation of funds for any State under this section.

''(5) PROVISION OF ADEQUATE DATA, MODELING, AND SUPPORT.—In any case in which a State requests reasonable technical support or otherwise requests data (including planning models and other modeling), clarification, or guidance regarding the content of any final rule or applicable regulation material to State actions under this section, the Secretary and any other agency shall provide that support, clarification, or guidance in a timely manner.

''(6) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this subsection shall be treated as projects on a Federal-aid highway under this chapter.''.

SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.

(a) IN GENERAL.—Section 165 of title 23, United States Code, is amended to read as follows:

''§ 165. Territorial and Puerto Rico highway program

''(a) DIVISION OF FUNDS.—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

''(1) 75 percent shall be for the Puerto Rico highway program under subsection (b); and

''(2) 25 percent shall be for the territorial highway program under subsection (c).

''(b) PUERTO RICO HIGHWAY PROGRAM.—

''(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

''(2) TREATMENT OF FUNDS.—Amounts made available to carry out this subsection for a fiscal year shall be administered as follows:

''(A) APPORTIONMENT.—

''(i) IN GENERAL.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144 (as in effect for fiscal year 1997) for each program funded under those sections in an amount determined by multiplying—

''(I) the aggregate of the amounts for the fiscal year; by

''(II) the proportion that—

''(aa) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to

''(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

''(ii) EXCEPTION.—Funds identified under clause (i) as having been apportioned for the national highway system, the surface transportation program, and the Interstate maintenance program shall be deemed to have been apportioned 50 percent for the national highway performance program and 50 percent for the transportation mobility program for purposes of imposing such penalties.

''(B) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.

''(C) ELIGIBLE USES OF FUNDS.—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—

''(i) at least 50 percent shall be available only for purposes eligible under section 119;

''(ii) at least 25 percent shall be available only for purposes eligible under section 148; and

''(iii) any remaining funds may be obligated for activities eligible under chapter 1.

''(3) EFFECT ON APPORTIONMENTS.—Except as otherwise specifically provided, Puerto Rico shall not be eligible to receive funds apportioned to States under this title.

''(c) TERRITORIAL HIGHWAY PROGRAM.—

''(1) TERRITORY DEFINED.—In this subsection, the term 'territory' means any of the following territories of the United States:

''(A) American Samoa.

''(B) The Commonwealth of the Northern Mariana Islands.

''(C) Guam.

''(D) The United States Virgin Islands.

''(2) PROGRAM.—

''(A) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

''(i) designated by the Governor or chief executive officer of each territory; and

''(ii) approved by the Secretary.

''(B) FEDERAL SHARE.—The Federal share of Federal financial assistance provided to territories under this subsection shall be in accordance with section 120(g).

''(3) TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories, on a continuing basis—

''(i) to engage in highway planning;

''(ii) to conduct environmental evaluations;

''(iii) to administer right-of-way acquisition and relocation assistance programs; and

''(iv) to design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

''(B) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under subparagraph (A), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by paragraph (5).

''(4) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

''(A) IN GENERAL.—Except to the extent that provisions of this chapter are determined by the Secretary to be inconsistent with the needs of the territories and the intent of this subsection, this chapter (other than provisions of this chapter relating to the apportionment and allocation of funds) shall apply to funds made available under this subsection.

''(B) APPLICABLE PROVISIONS.—The agreement required by paragraph (5) for each territory shall identify the sections of this chapter that are applicable to that territory and the extent of the applicability of those sections.

''(5) AGREEMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (D), none of the funds made available under this subsection shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the territory has entered into an agreement (including an agreement entered into under section 215 as in effect on the day before the enactment of this section) with the Secretary providing that the government of the territory shall—

''(i) implement the program in accordance with applicable provisions of this chapter and paragraph (4);

''(ii) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

''(I) appropriate for each territory; and

''(II) approved by the Secretary;

''(iii) provide for the maintenance of facilities constructed or operated under this subsection in a condition to adequately serve the needs of present and future traffic; and

''(iv) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

''(B) TECHNICAL ASSISTANCE.—The agreement required by subparagraph (A) shall—

''(i) specify the kind of technical assistance to be provided under the program;

''(ii) include appropriate provisions regarding information sharing among the territories; and

''(iii) delineate the oversight role and responsibilities of the territories and the Secretary.

''(C) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

''(D) EXISTING AGREEMENTS.—With respect to an agreement under this subsection or an agreement entered into under section 215 of this title as in effect on the day before the date of enactment of this subsection—

''(i) the agreement shall continue in force until replaced by an agreement entered into in accordance with subparagraph (A); and

''(ii) amounts made available under this subsection under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under subparagraph (A), is in effect.

''(6) ELIGIBLE USES OF FUNDS.—

''(A) IN GENERAL.—Funds made available under this subsection may be used only for the following projects and activities carried out in a territory:

''(i) Eligible transportation mobility program projects described in section 133(c).

''(ii) Cost-effective, preventive maintenance consistent with section 116(d).

''(iii) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

''(iv) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

''(v) Studies of the economy, safety, and convenience of highway use.

''(vi) The regulation and equitable taxation of highway use.

''(vii) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

''(B) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available under this subsection shall be obligated or expended for routine maintenance.

''(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in paragraphs (2), (4), (7), (8), (14), and (19) of section 133(c)) may not be undertaken on roads functionally classified as local.''.

(b) CONFORMING AMENDMENTS.—

(1) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 165 and inserting the following:

''165. Territorial and Puerto Rico highway program.''.

(2) OBSOLETE TEXT.—Section 215 of that title, and the item relating to that section in the analysis for chapter 2, are repealed.

SEC. 1115. NATIONAL FREIGHT PROGRAM.

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

''§ 167. National freight program

''(a) NATIONAL FREIGHT PROGRAM.—It is the policy of the United States to improve the condition and performance of the national freight network to ensure that the national freight network provides the foundation for the United States to compete in the global economy and achieve each goal described in subsection (b).

''(b) GOALS.—The goals of the national freight program are—

''(1) to invest in infrastructure improvements and to implement operational improvements that—

''(A) strengthen the contribution of the national freight network to the economic competitiveness of the United States;

''(B) reduce congestion; and

''(C) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

''(2) to reduce the environmental impacts of freight movement on the national freight network;

''(3) to improve the safety, security, and resilience of freight transportation;

''(4) to improve the state of good repair of the national freight network;

''(5) to use advanced technology to improve the safety and efficiency of the national freight network;

''(6) to incorporate concepts of performance, innovation, competition, and accountability into the operation and maintenance of the national freight network; and

''(7) to improve the economic efficiency of the national freight network.

''(c) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and implement a national freight program in accordance with this section to strategically direct Federal resources toward improved system performance for efficient movement of freight on highways, including national highway system freight intermodal connectors and aerotropolis transportation systems.

''(2) NETWORK COMPONENTS.—The national freight network shall consist of—

''(A) the primary freight network, as designated by the Secretary under subsection (f) (referred to in this section as the 'primary freight network') as most critical to the movement of freight;

''(B) the portions of the Interstate System not designated as part of the primary freight network; and

''(C) critical rural freight corridors established under subsection (g).

''(d) USE OF APPORTIONED FUNDS.—

''(1) PROJECTS ON THE NATIONAL FREIGHT NETWORK.—At a minimum, following designation of the primary freight network under subsection (f), a State shall obligate funds apportioned under section 104(b)(5) to improve the movement of freight on the national freight network.

''(2) LOCATION OF PROJECTS.—A project carried out using funds apportioned under paragraph (1) shall be located—

''(A) on the primary freight network as described under subsection (f);

''(B) on a portion of the Interstate System not designated as primary freight network;

''(C) on roads off of the Interstate System or primary freight network, if that use of funds will provide—

''(i) a more significant improvement to freight movement on the Interstate System or the primary freight network;

''(ii) critical freight access to the Interstate System or the primary freight network; or

''(iii) mitigation of the congestion impacts from freight movement;

''(D) on a national highway system freight intermodal connector;

''(E) on critical rural freight corridors, as designated under subsection (g) (except that not more than 20 percent of the total anticipated apportionment of a State under section 104(b)(5) during fiscal years 2012 and 2013 may be used for projects on critical rural freight corridors); or

''(F) within the boundaries of public and private intermodal facilities, but shall only include surface infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into and out of the facility.

''(3) PRIMARY FREIGHT NETWORK FUNDING.—Beginning for each fiscal year after the Secretary designates the primary freight network, a State shall obligate from funds apportioned under section 104(b)(5) for the primary freight network the lesser of—

''(A) an amount equal to the product obtained by multiplying—

''(i) an amount equal to 110 percent of the apportionment of the State for the fiscal year under section 104(b)(5); and

''(ii) the proportion that—

''(I) the total designated primary freight network mileage of the State; bears to

''(II) the sum of the designated primary freight network mileage of the State and the total Interstate system mileage of the State that is not designated as part of the primary freight network; or

''(B) an amount equal to the total apportionment of the State under section 104(b)(5).

''(e) ELIGIBILITY.—

''(1) ELIGIBLE PROJECTS.—To be eligible for funding under this section, a project shall demonstrate the improvement made by the project to the efficient movement of freight on the national freight network.

''(2) FREIGHT RAIL AND MARITIME PROJECTS.—

''(A) IN GENERAL.—A State may obligate an amount equal to not more than 10 percent of the total apportionment to the State under section 104(b)(5) over the period of fiscal years 2012 and 2013 for public or private freight rail or maritime projects.

''(B) ELIGIBILITY.—For a State to be eligible to obligate funds in the manner described in subparagraph (A), the Secretary shall concur with the State that—

''(i) the project for which the State seeks to obligate funds under this paragraph would make freight rail improvements to enhance cross-border commerce within 5 miles of the international border between the United States and Canada or Mexico or make significant improvement to freight movements on the national freight network; and

''(ii) the public benefit of the project—

''(I) exceeds the Federal investment; and

''(II) provides a better return than a highway project on a segment of the primary freight network.

''(3) ELIGIBLE PROJECT COSTS.—A State may obligate funds apportioned to the State under section 104(b)(5) for the national freight program for any of the following costs of an eligible project:

''(A) Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities.

''(B) Construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements to land), construction contingencies, acquisition of equipment, and operational improvements directly relating to improving system performance, including but not limited to any segment of the primary freight network that falls below the minimum level established pursuant to section 119(f).

''(C) Intelligent transportation systems and other technology to improve the flow of freight.

''(D) Efforts to reduce the environmental impacts of freight movement on the national freight network.

''(E) Environmental mitigation.

''(F) Railway-highway grade separation.

''(G) Geometric improvements to interchanges and ramps.

''(H) Truck-only lanes.

''(I) Climbing and runaway truck lanes.

''(J) Adding or widening of shoulders.

''(K) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

''(L) Real-time traffic, truck parking, roadway condition, and multimodal transportation information systems.

''(M) Electronic screening and credentialing systems for vehicles, including weigh-in-motion truck inspection technologies.

''(N) Traffic signal optimization including synchronized and adaptive signals.

''(O) Work zone management and information systems.

''(P) Highway ramp metering.

''(Q) Electronic cargo and border security technologies that improve truck freight movement.

''(R) Intelligent transportation systems that would increase truck freight efficiencies inside the boundaries of intermodal facilities.

''(S) Any other activities to improve the flow of freight on the national freight network.

''(4) OTHER ELIGIBLE COSTS.—In addition to eligible project costs, a State may use funds apportioned under section 104(b)(5) for—

''(A) carrying out diesel retrofit or alternative fuel projects defined in section 149 for class 8 vehicles; or

''(B) the necessary costs of—

''(i) conducting analyses and data collection;

''(ii) developing and updating performance targets to carry out this section; or

''(iii) reporting to the Secretary to comply with subsection (i).

''(5) ELIGIBLE PROJECT COSTS PRIOR TO DESIGNATION OF THE PRIMARY FREIGHT NETWORK.—Prior to the date of designation of the primary freight network, a State may obligate funds apportioned to the State under section 104(b)(5) to improve freight movement on the Interstate System for—

''(A) construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the Interstate System;

''(B) operational improvements for segments of the Interstate System;

''(C) construction of, and operational improvements for, a Federal-aid highway not on the Interstate System, and construction of a transit project eligible for assistance under chapter 53 of title 49, United States Code, if—

''(i) the highway or transit project is in the same corridor as, and in proximity to a highway designated as a part of, the Interstate System;

''(ii) the construction or improvements would improve the level of service on the Interstate System described in subparagraph (A) and improve freight traffic flow; and

''(iii) the construction or improvements are more cost-effective for freight movement than an improvement to the Interstate System described in subparagraph (A);

''(D) highway safety improvements for segments of the Interstate System;

''(E) transportation planning in accordance with sections 134 and 135;

''(F) the costs of conducting analysis and data collection to comply with this section;

''(G) truck parking facilities eligible for funding under section 1401 of the MAP–21;

''(H) infrastructure-based intelligent transportation systems capital improvements;

''(I) environmental restoration and pollution abatement in accordance with section 328; and

''(J) in accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

''(i) contributions to those mitigation efforts may—

''(I) take place concurrent with or in advance of project construction; and

''(II) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

''(ii) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

''(f) DESIGNATION OF PRIMARY FREIGHT NETWORK.—

''(1) INITIAL DESIGNATION OF PRIMARY FREIGHT NETWORK.—

''(A) DESIGNATION.—Not later than 1 year after the date of enactment of this section, the Secretary shall designate a primary freight network—

''(i) based on an inventory of national freight volume conducted by the Administrator of the Federal Highway Administration, in consultation with stakeholders, including system users , transport providers, and States; and

''(ii) that shall be comprised of not more than 27,000 centerline miles of existing roadways that are most critical to the movement of freight.

''(B) FACTORS FOR DESIGNATION.—In designating the primary freight network, the Secretary shall consider—

''(i) the origins and destinations of freight movement in the United States;

''(ii) the total freight tonnage and value of freight moved by all modes of transportation;

''(iii) the percentage of annual average daily truck traffic in the annual average daily traffic on principal arterials;

''(iv) the annual average daily truck traffic on principal arterials;

''(v) land and maritime ports of entry;

''(vi) population centers; and

''(vii) network connectivity.

''(2) ADDITIONAL MILES ON PRIMARY FREIGHT NETWORK.—In addition to the miles initially designated under paragraph (1), the Secretary may increase the number of miles designated as part of the primary freight network by not more than 3,000 additional centerline miles of roadways (which may include existing or planned roads) critical to future efficient movement of goods on the primary freight network.

''(3) REDESIGNATION OF PRIMARY FREIGHT NETWORK.—During calendar year 2015 and every 10 years thereafter, using the designation factors described in paragraph (1), the Secretary shall redesignate the primary freight network (including additional mileage described in subsection (f)(2)).

''(g) CRITICAL RURAL FREIGHT CORRIDORS.—A State may designate a road within the borders of the State as a critical rural freight corridor if the road—

''(1) is a rural principal arterial roadway and has a minimum of 25 percent of the annual average daily traffic of the road measured in passenger vehicle equivalent units from trucks (FHWA vehicle class 8 to 13); or

''(2) connects the primary freight network, a roadway described in paragraph (1), or Interstate System to facilities that handle more than—

''(A) 50,000 20-foot equivalent units per year; or

''(B) 500,000 tons per year of bulk commodities.

''(h) NATIONAL FREIGHT STRATEGIC PLAN.—

''(1) INITIAL DEVELOPMENT OF NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 3 years after the date of enactment of this section, the Secretary shall, in consultation with appropriate public and private transportation stakeholders, develop and post on the Department of Transportation public website a national freight strategic plan that shall include—

''(A) an assessment of the condition and performance of the national freight network;

''(B) an identification of highway bottlenecks on the national freight network that create significant freight congestion problems, based on a quantitative methodology developed by the Secretary, which shall, at a minimum, include information from the Freight Analysis Network of the Federal Highway Administration;

''(C) forecasts of freight volumes for the 20-year period beginning in the year during which the plan is issued;

''(D) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators for current and forecasted traffic and freight volumes, the identification of which shall be revised, as appropriate, in subsequent plans;

''(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance (including opportunities for overcoming the barriers);

''(F) best practices for improving the performance of the national freight network;

''(G) best practices to mitigate the impacts of freight movement on communities;

''(H) a process for addressing multistate projects and encouraging jurisdictions to collaborate; and

''(I) strategies to improve maritime, freight rail, and freight intermodal connectivity.

''(2) UPDATES TO NATIONAL FREIGHT STRATEGIC PLAN.—Not later than 5 years after the date of completion of the first national freight strategic plan under paragraph (1), and every 5 years thereafter, the Secretary shall update and repost on the Department of Transportation public website a revised national freight strategic plan.

''(i) FREIGHT PERFORMANCE TARGETS.—

''(1) RULEMAKING.—Not later than 2 years after the date of enactment of this section, the Secretary, in consultation with State departments of transportation and other appropriate public and private transportation stakeholders, shall publish a rulemaking that establishes performance measures for freight movement on the primary freight network.

''(2) STATE TARGETS AND REPORTING.—Not later than 1 year after the date on which the Secretary publishes the rulemaking under paragraph (1), each State shall—

''(A) develop and periodically update State performance targets for freight movement on the primary freight network—

''(i) in consultation with appropriate public and private stakeholders; and

''(ii) using measures determined by the Secretary; and

''(B) for every 2-year period, submit to the Secretary a report that contains a description of—

''(i) the progress of the State toward meeting the targets; and

''(ii) the ways in which the State is addressing congestion at freight bottlenecks within the State.

''(3) COMPLIANCE.—

''(A) PERFORMANCE TARGETS.—To obligate funding apportioned under section 104(b)(5), each State shall develop performance targets in accordance with paragraph (2).

''(B) DETERMINATION OF SECRETARY.—If the Secretary determines that a State has not met or made significant progress toward meeting the performance targets of the State by the date that is 2 years after the date of establishment of the performance targets, until the date on which the Secretary determines that the State has met (or has made significant progress towards meeting) the State performance targets, the State shall submit to the Secretary, on a biennial basis, a freight performance improvement plan that includes—

''(i) an identification of significant freight system trends, needs, and issues within the State;

''(ii) a description of the freight policies and strategies that will guide the freight-related transportation investments of the State;

''(iii) an inventory of freight bottlenecks within the State and a description of the ways in which the State is allocating funds to improve those bottlenecks; and

''(iv) a description of the actions the State will undertake to meet the performance targets of the State.

''(j) FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—Not later than 2 years after the date of enactment of this section, and biennially thereafter, the Secretary shall prepare a report that contains a description of the conditions and performance of the national freight network in the United States.

''(k) TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall—

''(A) begin development of new tools and improvement of existing tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other transportation projects, including—

''(i) methodologies for systematic analysis of benefits and costs;

''(ii) tools for ensuring that the evaluation of freight-related and other transportation projects could consider safety, economic competitiveness, environmental sustainability, and system condition in the project selection process; and

''(iii) other elements to assist in effective transportation planning;

''(B) identify transportation-related model data elements to support a broad range of evaluation methods and techniques to assist in making transportation investment decisions; and

''(C) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data collection efforts that could reduce identified freight data gaps and deficiencies and help improve forecasts of freight transportation demand.

''(2) CONSULTATION.—The Secretary shall consult with Federal, State, and other stakeholders to develop, improve, and implement the tools and collect the data in paragraph (1).

''(l) DEFINITION OF AEROTROPOLIS TRANSPORTATION SYSTEM.—For the purposes of this section, the term 'aerotropolis transportation system' means a planned and coordinated multimodal freight and passenger transportation network that, as determined by the Secretary, provides efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance centered around a major airport.

''(m) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid highway under this chapter.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''167. National freight program.''.

SEC. 1116. FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking sections 201 through 204 and inserting the following:

''§ 201. Federal lands and tribal transportation programs

''(a) PURPOSE.—Recognizing the need for all public Federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public transportation facilities, the Secretary of Transportation, in collaboration with the Secretaries of the appropriate Federal land management agencies, shall coordinate a uniform policy for all public Federal and tribal transportation facilities that shall apply to Federal lands transportation facilities, tribal transportation facilities, and Federal lands access transportation facilities.

''(b) AVAILABILITY OF FUNDS.—

''(1) AVAILABILITY.—Funds authorized for the tribal transportation program, the Federal lands transportation program, and the Federal lands access program shall be available for contract upon apportionment, or on October 1 of the fiscal year for which the funds were authorized if no apportionment is required.

''(2) AMOUNT REMAINING.—Any amount remaining unexpended for a period of 3 years after the close of the fiscal year for which the funds were authorized shall lapse.

''(3) OBLIGATIONS.—The Secretary of the department responsible for the administration of funds under this subsection may incur obligations, approve projects, and enter into contracts under such authorizations, which shall be considered to be contractual obligations of the United States for the payment of the cost thereof, the funds of which shall be considered to have been expended when obligated.

''(4) EXPENDITURE.—

''(A) IN GENERAL.—Any funds authorized for any fiscal year after the date of enactment of this section under the Federal lands transportation program, the Federal lands access program, and the tribal transportation program shall be considered to have been expended if a sum equal to the total of the sums authorized for the fiscal year and previous fiscal years have been obligated.

''(B) CREDITED FUNDS.—Any funds described in subparagraph (A) that are released by payment of final voucher or modification of project authorizations shall be—

''(i) credited to the balance of unobligated authorizations; and

''(ii) immediately available for expenditure.

''(5) APPLICABILITY.—This section shall not apply to funds authorized before the date of enactment of this paragraph.

''(6) CONTRACTUAL OBLIGATION.—

''(A) IN GENERAL.—Notwithstanding any other provision of law (including regulations), the authorization by the Secretary, or the Secretary of the appropriate Federal land management agency if the agency is the contracting office, of engineering and related work for the development, design, and acquisition associated with a construction project, whether performed by contract or agreement authorized by law, or the approval by the Secretary of plans, specifications, and estimates for construction of a project, shall be considered to constitute a contractual obligation of the Federal Government to pay the total eligible cost of—

''(i) any project funded under this title; and

''(ii) any project funded pursuant to agreements authorized by this title or any other title.

''(B) EFFECT.—Nothing in this paragraph—

''(i) affects the application of the Federal share associated with the project being undertaken under this section; or

''(ii) modifies the point of obligation associated with Federal salaries and expenses.

''(7) FEDERAL SHARE.—

''(A) TRIBAL AND FEDERAL LANDS TRANSPORTATION PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands transportation program or the tribal transportation program shall be 100 percent.

''(B) FEDERAL LANDS ACCESS PROGRAM.—The Federal share of the cost of a project carried out under the Federal lands access program shall be determined in accordance with section 120.

''(c) TRANSPORTATION PLANNING.—

''(1) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall implement transportation planning procedures for Federal lands and tribal transportation facilities that are consistent with the planning processes required under sections 134 and 135.

''(2) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

''(3) INCLUSION IN OTHER PLANS.—Each regionally significant tribal transportation program, Federal lands transportation program, and Federal lands access program project shall be—

''(A) developed in cooperation with State and metropolitan planning organizations; and

''(B) included in appropriate tribal transportation program plans, Federal lands transportation program plans, Federal lands access program plans, State and metropolitan plans, and transportation improvement programs.

''(4) INCLUSION IN STATE PROGRAMS.—The approved tribal transportation program, Federal lands transportation program, and Federal lands access program transportation improvement programs shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

''(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, implement safety, bridge, pavement, and congestion management systems for facilities funded under the tribal transportation program and the Federal lands transportation program in support of asset management.

''(6) DATA COLLECTION.—

''(A) DATA COLLECTION.—The Secretaries of the appropriate Federal land management agencies shall collect and report data necessary to implement the Federal lands transportation program, the Federal lands access program, and the tribal transportation program, including—

''(i) inventory and condition information on Federal lands transportation facilities and tribal transportation facilities; and

''(ii) bridge inspection and inventory information on any Federal bridge open to the public.

''(B) STANDARDS.—The Secretary, in coordination with the Secretaries of the appropriate Federal land management agencies, shall define the collection and reporting data standards.

''(7) ADMINISTRATIVE EXPENSES.—To implement the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies, the Secretary may use not more than 5 percent for each fiscal year of the funds authorized for programs under sections 203 and 204.

''(d) REIMBURSABLE AGREEMENTS.—In carrying out work under reimbursable agreements with any State, local, or tribal government under this title, the Secretary—

''(1) may, without regard to any other provision of law (including regulations), record obligations against accounts receivable from the entity; and

''(2) shall credit amounts received from the entity to the appropriate account, which shall occur not later than 90 days after the date of the original request by the Secretary for payment.

''(e) TRANSFERS.—

''(1) IN GENERAL.—To enable the efficient use of funds made available for the Federal lands transportation program and the Federal lands access program, the funds may be transferred by the Secretary within and between each program with the concurrence of, as appropriate—

''(A) the Secretary;

''(B) the affected Secretaries of the respective Federal land management agencies;

''(C) State departments of transportation; and

''(D) local government agencies.

''(2) CREDIT.—The funds described in paragraph (1) shall be credited back to the loaning entity with funds that are currently available for obligation at the time of the credit.

''§ 202. Tribal transportation program

''(a) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available under the tribal transportation program shall be used by the Secretary of Transportation and the Secretary of the Interior to pay the costs of—

''(A)(i) transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities;

''(ii) adjacent vehicular parking areas;

''(iii) interpretive signage;

''(iv) acquisition of necessary scenic easements and scenic or historic sites;

''(v) provisions for pedestrians and bicycles;

''(vi) environmental mitigation in or adjacent to tribal land—

''(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

''(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

''(vii) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

''(viii) other appropriate public road facilities as determined by the Secretary;

''(B) operation and maintenance of transit programs and facilities that are located on, or provide access to, tribal land, or are administered by a tribal government; and

''(C) any transportation project eligible for assistance under this title that is located within, or that provides access to, tribal land, or is associated with a tribal government.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the Interior may enter into a contract or other appropriate agreement with respect to the activity with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

''(3) INDIAN LABOR.—Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1).

''(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to the construction or improvement of tribal transportation facilities.

''(5) FUNDS FOR CONSTRUCTION AND IMPROVEMENT.—All funds made available for the construction and improvement of tribal transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the Interior.

''(6) ADMINISTRATIVE EXPENSES.—The Secretary of the Interior may reserve amounts from administrative funds of the Bureau of Indian Affairs that are associated with the tribal transportation program to fund tribal technical assistance centers under section 504(b).

''(7) MAINTENANCE.—

''(A) USE OF FUNDS.—Notwithstanding any other provision of this title, of the amount of funds allocated to an Indian tribe from the tribal transportation program, for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation), the Secretary shall not use an amount more than the greater of—

''(i) an amount equal to 25 percent; or

''(ii) $500,000.

''(B) RESPONSIBILITY OF BUREAU OF INDIAN AFFAIRS AND SECRETARY OF THE INTERIOR.—

''(i) BUREAU OF INDIAN AFFAIRS.—The Bureau of Indian Affairs shall retain primary responsibility, including annual funding request responsibility, for Bureau of Indian Affairs road maintenance programs on Indian reservations.

''(ii) SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall ensure that funding made available under this subsection for maintenance of tribal transportation facilities for each fiscal year is supplementary to, and not in lieu of, any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

''(C) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

''(i) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe shall assume the responsibility of the State for—

''(I) tribal transportation facilities; and

''(II) roads providing access to tribal transportation facilities.

''(ii) REQUIREMENTS.—Agreements entered into under clause (i) shall—

''(I) be negotiated between the State and the Indian tribe; and

''(II) not require the approval of the Secretary.

''(8) COOPERATION.—

''(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

''(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the tribal transportation program.

''(9) COMPETITIVE BIDDING.—

''(A) CONSTRUCTION.—

''(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

''(ii) EXCEPTION.—Clause (i) shall not apply if the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

''(B) APPLICABILITY.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (25 U.S.C. 47) and section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal transportation facilities.

''(b) FUNDS DISTRIBUTION.—

''(1) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

''(A) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program.

''(B) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORY.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that an Indian tribe has requested, including facilities that—

''(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;

''(ii) are owned by an Indian tribal government;

''(iii) are owned by the Bureau of Indian Affairs;

''(iv) were constructed or reconstructed with funds from the Highway Account of the Transportation Trust Fund under the Indian reservation roads program since 1983;

''(v) are public roads or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in the State of Oklahoma) in which the majority of residents are American Indians or Alaska Natives;

''(vi) are public roads within or providing access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian or Alaska Native villages, groups, or communities in which Indians and Alaska Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians; or

''(vii) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal terminals, such as airports, harbors, or boat landings.

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

''(D) ADDITIONAL FACILITIES.—Nothing in this paragraph precludes the Secretary from including additional transportation facilities

that are eligible for funding under the tribal transportation program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.

''(E) BRIDGES.—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 144.

''(2) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain any regulations governing the tribal transportation program.

''(3) BASIS FOR FUNDING FORMULA.—

''(A) BASIS.—

''(i) IN GENERAL.—After making the set asides authorized under subsections (c), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as follows:

''(I) For fiscal year 2012—

''(aa) 50 percent, equal to the ratio that the amount allocated to each tribe as a tribal share for fiscal year 2011 bears to the total tribal share amount allocated to all tribes for that fiscal year; and

''(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

''(II) For fiscal year 2013 and thereafter, using tribal shares as described in subparagraphs (B) and (C).

''(ii) TRIBAL HIGH PRIORITY PROJECTS.—The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21), shall not continue in effect.

''(B) TRIBAL SHARES.—Tribal shares under this program shall be determined using the national tribal transportation facility inventory as calculated for fiscal year 2012, and the most recent data on American Indian and Alaska Native population within each Indian tribe's American Indian/Alaska Native Reservation or Statistical Area, as computed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), in the following manner:

''(i) 30 percent in the ratio that the total eligible lane mileage in each tribe bears to the total eligible lane mileage of all American Indians and Alaskan Natives. For the purposes of this calculation—

''(I) eligible lane mileage shall be computed based on the inventory described in paragraph (1), using only facilities included in the inventory described in clause (i), (ii), or (iii) of paragraph (1)(B); and

''(II) paved roads and gravel surfaced roads are deemed to equal 2 lane miles per mile of inventory, and earth surfaced roads and unimproved roads shall be deemed to equal 1 lane mile per mile of inventory.

''(ii) 35 percent in the ratio that the total population in each tribe bears to the total population of all American Indians and Alaskan Natives.

''(iii) 35 percent shall be divided equally among each Bureau of Indian Affairs region for distribution of tribal shares as follows:

''(I) ¼ of 1 percent shall be distributed equally among Indian tribes with populations of 1 to 25.

''(II) ¾ of 1 percent shall be distributed equally among Indian tribes with populations of 26 to 100.

''(III) 3¾ percent shall be distributed equally among Indian tribes with populations of 101 to 1,000.

''(IV) 20 percent shall be distributed equally among Indian tribes with populations of 1,001 to 10,000.

''(V) 74¾ percent shall be distributed equally among Indian tribes with populations of 10,001 to 60,000 where 3 or more Indian tribes occupy this category in a single Bureau of Indian Affairs region, and Bureau of Indian Affairs regions containing less than 3 Indian tribes in this category shall receive funding in accordance with subclause (IV) and clause (iv).

''(VI) ½ of 1 percent shall be distributed equally among Indian tribes with populations of 60,001 or more.

''(iv) For a Bureau of Indian Affairs region that has no Indian tribes meeting the population criteria under 1 or more of subclauses (I) through (VI) of clause (iii), the region shall redistribute any funds subject to such clause or clauses among any such clauses for which the region has Indian tribes meeting such criteria proportionally in accordance with the percentages listed in such clauses until such funds are completely distributed.

''(C) TRIBAL SUPPLEMENTAL FUNDING.—

''(i) TRIBAL SUPPLEMENTAL FUNDING AMOUNT.—Of funds made available for each fiscal year for the tribal transportation program, the Secretary shall set aside the following amount for a tribal supplemental program:

''(I) If the amount made available for the tribal transportation program is less than or equal to $275,000,000, 30 percent of such amount.

''(II) If the amount made available for the tribal transportation program exceeds $275,000,000—

''(aa) $27,500,000; plus

''(bb) 12.5 percent of the amount made available for the tribal transportation program in excess of $275,000,000.

''(ii) TRIBAL SUPPLEMENTAL ALLOCATION.—The Secretary shall distribute tribal supplemental funds as follows:

''(I) DISTRIBUTION AMONG REGIONS.—Of the amounts set aside under clause (i), the Secretary shall distribute to each region of the Bureau of Indian Affairs a share of tribal supplemental funds in proportion to the regional total of tribal shares based on the cumulative tribal shares of all Indian tribes within such region under subparagraph (B).

''(II) DISTRIBUTION WITHIN A REGION.—Of the amount that a region receives under subclause (I), the Secretary shall distribute tribal supplemental funding among Indian tribes within such region as follows:

''(aa) TRIBAL SUPPLEMENTAL AMOUNTS.—The Secretary shall determine—

''(AA) which such Indian tribes would be entitled under subparagraph (A) to receive in a fiscal year less funding than they would receive in fiscal year 2011 pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21); and

''(BB) the combined amount that such Indian tribes would be entitled to receive in fiscal year 2011 pursuant to such Tribal Transportation Allocation Methodology in excess of the amount that they would be entitled to receive in the fiscal year under subparagraph (B); and

''(bb) Subject to subclause (III), distribute to each Indian tribe that meets the criteria described in item (aa)(AA) a share of funding under this subparagraph in proportion to the share of the combined amount determined under item (aa)(BB) attributable to such Indian tribe.

''(III) CEILING.—An Indian tribe may not receive under subclause (II) and based on its tribal share under subparagraph (A) a combined amount that exceeds the amount that such Indian tribe would be entitled to receive in fiscal year 2011 pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21).

''(IV) OTHER AMOUNTS.—If the amount made available for a region under subclause (I) exceeds the amount distributed among Indian tribes within that region under subclause (II), the Secretary shall distribute the remainder of such region's funding under such subclause among all Indian tribes in that region in proportion to the combined amount that each such Indian tribe received under subparagraph (A) and subclauses (I), (II), and (III).

''(4) TRANSFERRED FUNDS.—

''(A) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and made available for immediate use by, eligible Indian tribes, in accordance with the formula for distribution of funds under the tribal transportation program.

''(B) USE OF FUNDS.—Notwithstanding any other provision of this section, funds made available to Indian tribes for tribal transportation facilities shall be expended on projects identified in a transportation improvement program approved by the Secretary.

''(5) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available from the tribal transportation program through a contract or agreement under Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), if the Indian tribal government—

''(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

''(B) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

''(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs, Department of Transportation, or the Assistant Secretary for Indian Affairs, Department of the Interior, as appropriate.

''(6) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions of programs, services, functions, or activities, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any tribal transportation facility shall be made available, upon request of the Indian tribal government, to the Indian tribal government for contracts and agreements for such planning, research, engineering, and construction in accordance with Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(B) EXCLUSION OF AGENCY PARTICIPATION.—All funds, including contract support costs, for programs, functions, services, or activities, or portions of programs, services, functions, or activities, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A), without regard to the organizational level at which the Department of

the Interior has previously carried out such programs, functions, services, or activities.

''(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior to an Indian tribal government under this chapter for a tribal transportation facility program or project shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

''(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds, including contract support costs, for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the tribal transportation program, the programs, functions, services, or activities involved.

''(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.

''(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

''(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

''(F) ELIGIBILITY.—

''(i) IN GENERAL.—Subject to clause (ii) and the approval of the Secretary, funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

''(ii) CONSIDERATIONS.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the contracts or self-governance funding agreements made by the Indian tribe with any Federal agency under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability of the Indian tribe for purposes of clause (i).

''(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

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

''(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred to the Indian tribe under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolution and appeal procedures authorized by that Act, including regulations issued to carry out the Act.

''(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

''(c) PLANNING.—

''(1) IN GENERAL.—For each fiscal year, not more than 2 percent of the funds made available for the tribal transportation program shall be allocated among Indian tribal governments that apply for transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

''(2) REQUIREMENT.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(c).

''(3) SELECTION AND APPROVAL OF PROJECTS.—A project funded under this section shall be—

''(A) selected by the Indian tribal government from the transportation improvement program; and

''(B) subject to the approval of the Secretary of the Interior and the Secretary.

''(d) TRIBAL TRANSPORTATION FACILITY BRIDGES.—

''(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall maintain a nationwide priority program for improving deficient bridges eligible for the tribal transportation program.

''(2) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated—

''(A) to carry out any planning, design, engineering, preconstruction, construction, and inspection of a project to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

''(B) to implement any countermeasure for deficient tribal transportation facility bridges, including multiple-pipe culverts.

''(3) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in paragraph (1) shall—

''(A) have an opening of not less than 20 feet;

''(B) be classified as a tribal transportation facility; and

''(C) be structurally deficient or functionally obsolete.

''(4) APPROVAL REQUIREMENT.—The Secretary may make funds available under this subsection for preliminary engineering, construction, and construction engineering activities after approval of required documentation and verification of eligibility in accordance with this title.

''(e) SAFETY.—

''(1) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal land, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in section 148(a)(4).

''(2) PROJECT SELECTION.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program, subject to the approval of the Secretary and the Secretary of the Interior.

''(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before approving as a project on a tribal transportation facility any project eligible for funds apportioned under section 104 in a State, the Secretary shall, for projects on tribal transportation facilities, determine that the obligation of funds for the project is supplementary to and not in lieu of the obligation of a fair and equitable share of funds apportioned to the State under section 104.

''§ 203. Federal lands transportation program

''(a) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

''(A) program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of Federal lands transportation facilities, and—

''(i) adjacent vehicular parking areas;

''(ii) acquisition of necessary scenic easements and scenic or historic sites;

''(iii) provision for pedestrians and bicycles;

''(iv) environmental mitigation in or adjacent to Federal land open to the public—

''(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

''(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

''(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities;

''(vi) congestion mitigation; and

''(vii) other appropriate public road facilities, as determined by the Secretary;

''(B) operation and maintenance of transit facilities; and

''(C) any transportation project eligible for assistance under this title that is on a public

road within or adjacent to, or that provides access to, Federal lands open to the public.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

''(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

''(4) COOPERATION.—

''(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

''(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands transportation facilities to which the funds were contributed.

''(5) COMPETITIVE BIDDING.—

''(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

''(b) AGENCY PROGRAM DISTRIBUTIONS.—

''(1) IN GENERAL.—On October 1, 2011, and on October 1 of each fiscal year thereafter, the Secretary shall allocate the sums authorized to be appropriated for the fiscal year for the Federal lands transportation program on the basis of applications of need, as determined by the Secretary—

''(A) in consultation with the Secretaries of the applicable Federal land management agencies; and

''(B) in coordination with the transportation plans required under section 201 of the respective transportation systems of—

''(i) the National Park Service;

''(ii) the Forest Service;

''(iii) the United States Fish and Wildlife Service;

''(iv) the Corps of Engineers; and

''(v) the Bureau of Land Management.

''(2) APPLICATIONS.—

''(A) REQUIREMENTS.—Each application submitted by a Federal land management agency shall include proposed programs at various potential funding levels, as defined by the Secretary following collaborative discussions with applicable Federal land management agencies.

''(B) CONSIDERATION BY SECRETARY.—In evaluating an application submitted under subparagraph (A), the Secretary shall consider the extent to which the programs support—

''(i) the transportation goals of—

''(I) a state of good repair of transportation facilities;

''(II) a reduction of bridge deficiencies, and

''(III) an improvement of safety;

''(ii) high-use Federal recreational sites or Federal economic generators; and

''(iii) the resource and asset management goals of the Secretary of the respective Federal land management agency.

''(C) PERMISSIVE CONTENTS.—Applications may include proposed programs the duration of which extend over a multiple-year period to support long-term transportation planning and resource management initiatives.

''(c) NATIONAL FEDERAL LANDS TRANSPORTATION FACILITY INVENTORY.—

''(1) IN GENERAL.—The Secretaries of the appropriate Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of public Federal lands transportation facilities.

''(2) TRANSPORTATION FACILITIES INCLUDED IN THE INVENTORIES.—To identify the Federal lands transportation system and determine the relative transportation needs among Federal land management agencies, the inventories shall include, at a minimum, facilities that—

''(A) provide access to high-use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the respective Secretaries of the appropriate Federal land management agencies; and

''(B) are owned by 1 of the following agencies:

''(i) The National Park Service.

''(ii) The Forest Service.

''(iii) The United States Fish and Wildlife Service.

''(iv) The Bureau of Land Management.

''(v) The Corps of Engineers.

''(3) AVAILABILITY.—The inventories shall be made available to the Secretary.

''(4) UPDATES.—The Secretaries of the appropriate Federal land management agencies shall update the inventories of the appropriate Federal land management agencies, as determined by the Secretary after collaborative discussions with the Secretaries of the appropriate Federal land management agencies.

''(5) REVIEW.—A decision to add or remove a facility from the inventory shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) BICYCLE SAFETY.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within 100 yards of the road.

''§ 204. Federal lands access program

''(a) USE OF FUNDS.—

''(1) IN GENERAL.—Funds made available under the Federal lands access program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the cost of—

''(A) transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—

''(i) adjacent vehicular parking areas;

''(ii) acquisition of necessary scenic easements and scenic or historic sites;

''(iii) provisions for pedestrians and bicycles;

''(iv) environmental mitigation in or adjacent to Federal land—

''(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

''(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;

''(v) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and

''(vi) other appropriate public road facilities, as determined by the Secretary;

''(B) operation and maintenance of transit facilities; and

''(C) any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, Federal land.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to the activity with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

''(3) ADMINISTRATION.—All appropriations for the construction and improvement of Federal lands access transportation facilities shall be administered in conformity with regulations and agreements approved by the Secretary.

''(4) COOPERATION.—

''(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

''(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision for a Federal lands access transportation facility project shall be credited to appropriations available under the Federal lands access program.

''(5) COMPETITIVE BIDDING.—

''(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

''(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

''(b) PROGRAM DISTRIBUTIONS.—

''(1) IN GENERAL.—Funding made available to carry out the Federal lands access program shall be allocated among those States that have Federal land, in accordance with the following formula:

''(A) 80 percent of the available funding for use in those States that contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

''(i) 30 percent in the ratio that—

''(I) recreational visitation within each such State; bears to

''(II) the recreational visitation within all such States.

''(ii) 5 percent in the ratio that—

''(I) the Federal land area within each such State; bears to

''(II) the Federal land area in all such States.

''(iii) 55 percent in the ratio that—

''(I) the Federal public road miles within each such State; bears to

''(II) the Federal public road miles in all such States.

''(iv) 10 percent in the ratio that—

''(I) the number of Federal public bridges within each such State; bears to

''(II) the number of Federal public bridges in all such States.

''(B) 20 percent of the available funding for use in those States that do not contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

''(i) 30 percent in the ratio that—

''(I) recreational visitation within each such State; bears to

''(II) the recreational visitation within all such States.

''(ii) 5 percent in the ratio that—

''(I) the Federal land area within each such State; bears to

''(II) the Federal land area in all such States.

''(iii) 55 percent in the ratio that—

''(I) the Federal public road miles within each such State; bears to

''(II) the Federal public road miles in all such States.

''(iv) 10 percent in the ratio that—

''(I) the number of Federal public bridges within each such State; bears to

''(II) the number of Federal public bridges in all such States.

''(2) DATA SOURCE.—Data necessary to distribute funding under paragraph (1) shall be provided by the following Federal land management agencies:

''(A) The National Park Service.

''(B) The Forest Service.

''(C) The United States Fish and Wildlife Service.

''(D) The Bureau of Land Management.

''(E) The Corps of Engineers.

''(c) PROGRAMMING DECISIONS COMMITTEE.—

''(1) IN GENERAL.—Programming decisions shall be made within each State by a committee comprised of—

''(A) a representative of the Federal Highway Administration;

''(B) a representative of the State Department of Transportation; and

''(C) a representative of any appropriate political subdivision of the State.

''(2) CONSULTATION REQUIREMENT.—The committee described in paragraph (1) shall consult with each applicable Federal agency in each State before any joint discussion or final programming decision.

''(3) PROJECT PREFERENCE.—In making a programming decision under paragraph (1), the committee shall give preference to projects that provide access to, are adjacent to, or are located within high-use Federal recreation sites or Federal economic generators, as identified by the Secretaries of the appropriate Federal land management agencies.''.

(b) PUBLIC LANDS DEVELOPMENT ROADS AND TRAILS.—Section 214 of title 23, United States Code, is repealed.

(c) CONFORMING AMENDMENTS.—

(1) CHAPTER 2 ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended:

(A) By striking the items relating to sections 201 through 204 and inserting the following:

''201. Federal lands and tribal transportation programs.
''202. Tribal transportation program.
''203. Federal lands transportation program.
''204. Federal lands access program.''.

(B) By striking the item relating to section 214.

(2) DEFINITION.—Section 138(a) of title 23, United States Code, is amended in the third sentence by striking ''park road or parkway under section 204 of this title'' and inserting ''Federal lands transportation facility''.

(3) RULES, REGULATIONS, AND RECOMMENDATIONS.—Section 315 of title 23, United States Code, is amended by striking ''204(f)'' and inserting ''202(a)(5), 203(a)(3),''.

SEC. 1117. ALASKA HIGHWAY.

Section 218 of title 23, United States Code, is amended to read as follows:

''§ 218. Alaska Highway

''(a) DEFINITION OF ALASKA MARINE HIGHWAY SYSTEM.—In this section, the term 'Alaska Marine Highway System' includes each existing or planned transportation facility and equipment in the State of Alaska relating to the ferry system of the State, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges, and approaches thereto, and necessary roads.

''(b) AUTHORIZATION OF SECRETARY.—

''(1) IN GENERAL.—Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to Haines, the Secretary is authorized, upon agreement with the State of Alaska, to expend on such highway or the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title to provide for necessary reconstruction of such highway.

''(2) LIMITATION.—No expenditures shall be made for the construction of the portion of the highways that are in located in Canada until the date on which an agreement has been reached by the Government of Canada and the Government of the United States, which shall provide in part, that the Canadian Government—

''(A) will provide, without participation of funds authorized under this title, all necessary right-of-way for the construction of the highways;

''(B) will not impose any highway toll, or permit any toll to be charged for the use of the highways by vehicles or persons;

''(C) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of the highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

''(D) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

''(E) will maintain the highways after the date of completion of the highways in proper condition adequately to serve the needs of present and future traffic.

''(c) SUPERVISION OF SECRETARY.—The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.''.

SEC. 1118. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program in accordance with this section to provide grants for projects of national and regional significance.

(b) PURPOSE OF PROGRAM.—The purpose of the projects of national and regional significance program shall be to fund critical high-cost surface transportation infrastructure projects that are difficult to complete with existing Federal, State, local, and private funds and that will—

(1) generate national and regional economic benefits and increase global economic competitiveness;

(2) reduce congestion and its impacts;

(3) improve roadways vital to national energy security;

(4) improve movement of freight and people; and

(5) improve transportation safety.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means a State department of transportation or a group of State departments of transportation, a local government, a tribal government or consortium of tribal governments, a transit agency, a port authority, a metropolitan planning organization, other political subdivisions of State or local governments, or a multi-State or multi-jurisdictional group of the aforementioned entities.

(2) ELIGIBLE PROJECT.—The term ''eligible project'' means a surface transportation project or a program of integrated surface transportation projects closely related in the function they perform that—

(A) is a capital project or projects—

(i) eligible for Federal financial assistance under title 23, United States Code, or under chapter 53 of title 49, United States Code; or

(ii) for surface transportation infrastructure to facilitate intermodal interchange, transfer, and access into and out of intermodal facilities, including ports; and

(B) has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $500,000,000;

(ii) for a project located in a single State, 30 percent of the amount of Federal-aid highway funds apportioned for the most recently completed fiscal year to the State; or

(iii) for a project located in more than 1 State, 75 percent of the amount of Federal-aid highway funds apportioned for the most recently completed fiscal year to the State in which the project is located that has the largest apportionment.

(3) ELIGIBLE PROJECT COSTS.—The term ''eligible project costs'' means the costs of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment directly related to improving system performance, and operational improvements; and

(C) all financing costs, including subsidy costs under the Transportation Infrastructure Finance and Innovation Act program.

(d) SOLICITATIONS AND APPLICATIONS.—

(1) GRANT SOLICITATIONS.—The Secretary shall establish criteria for project evaluation and conduct a transparent and competitive national solicitation process to select projects for funding to carry out the purposes of this section.

(2) APPLICATIONS.—

(A) IN GENERAL.—An eligible applicant seeking a grant under this section for an eligible project shall submit an application to the Secretary in such form and in accordance with such requirements as the Secretary shall establish.

(B) CONTENTS.—An application under this subsection shall, at a minimum, include data on current system performance and estimated system improvements that will result from completion of the eligible project, including projections for 2, 7, and 15 years after completion.

(C) RESUBMISSION OF APPLICATIONS.—An eligible applicant whose project is not selected by the Secretary may resubmit an application in any subsequent solicitation.

(e) CRITERIA FOR PROJECT EVALUATION AND SELECTION.—

(1) IN GENERAL.—The Secretary may select a project only if the Secretary determines that the project—

(A) will significantly improve the performance of the national surface transportation network, nationally or regionally;

(B) is based on the results of preliminary engineering;

(C) cannot be readily and efficiently completed without Federal support from this program;

(D) is justified based on the ability of the project—

(i) to generate national economic benefits that reasonably exceed its costs, including increased access to jobs, labor, and other critical economic inputs;

(ii) to reduce long-term congestion, including impacts in the State, region, and Nation, and increase speed, reliability, and accessibility of the movement of people or freight; and

(iii) to improve transportation safety, including reducing transportation accidents, and serious injuries and fatalities; and

(E) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.

(2) ADDITIONAL CONSIDERATIONS.—In evaluating a project under this section, in addition to the criteria in paragraph (1), the Secretary shall consider the extent to which the project—

(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

(B) is able to begin construction within 18 months of being selected;

(C) incorporates innovative project delivery and financing where practical;

(D) stimulates collaboration between States and among State and local governments;

(E) helps maintain or protect the environment;

(F) improves roadways vital to national energy security;

(G) uses innovative technologies, including intelligent transportation systems, that enhance the efficiency of the project; and

(H) contributes to an equitable geographic distribution of funds under this section and an appropriate balance in addressing the needs of urban and rural communities.

(f) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant for a project under this section shall be subject to the following requirements:

(A) A qualifying highway project eligible for funding under title 23, United States Code, or public transportation project eligible under chapter 53 of title 49, United States Code, shall comply with all applicable requirements of such title or chapter except that, if the project contains elements or activities that are not eligible for funding under such title or chapter but are eligible for funding under this section, the elements or activities shall comply with the requirements described in subparagraph (B).

(B) A qualifying surface transportation project not eligible under title 23, United States Code, or chapter 53 of title 49, United States Code, shall comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code, section 10a-d of title 41, United States Code, and such other terms, conditions, and requirements as the Secretary determines are necessary and appropriate for the type of project.

(2) DETERMINATION OF APPLICABLE MODAL REQUIREMENTS.—In the event that a project has cross-modal components, the Secretary shall have the discretion to designate the requirements that shall apply to the project based on predominant components.

(3) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

(g) FEDERAL SHARE OF PROJECT COST.—

(1) IN GENERAL.—If a project funded under this section is to construct or improve a privately owned facility or would primarily benefit a private entity, the Federal share shall be the lesser of 50 percent of the total project cost or the quantified public benefit of the project. For all other projects funded under this section—

(A) the Federal share of funds under this section shall be up to 50 percent of the project cost; and

(B) the project sponsor may use other eligible Federal transportation funds to cover up to an additional 30 percent of the project costs.

(2) PRE-APPROVAL COSTS.—The Secretary may allow costs incurred prior to project approval to be used as a credit toward the non-Federal share of the cost of the project. Such costs must be adequately documented, necessary, reasonable, and allocable to the current phase of the project and such costs may not be included as a cost or used to meet cost-sharing or matching requirements of any other federally-financed project.

(h) REPORT TO THE SECRETARY.—For each project funded under this section, the project sponsor shall reassess system performance and report to the Secretary 2, 7, and 15 years after completion of the project to assess if the project outcomes have met pre-construction projections.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, to remain available until expended, $1,000,000,000 for fiscal year 2013.

(j) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, United States Code.

(k) REPORTS.—

(1) SECRETARY.—

(A) IN GENERAL.—Not later than 30 days after the date on which the Secretary selects a project for funding under this section, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the reasons for selecting the project, based on the criteria described in subsection (e).

(B) INCLUSIONS.—The report submitted under subparagraph (A) shall specify each criteria described in subsection (e) that the project meets.

(C) AVAILABILITY.—The Secretary shall make available on the website of the Department the report submitted under subparagraph (A).

(2) COMPTROLLER GENERAL.—

(A) ASSESSMENT.—The Comptroller General of the United States shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—

(i) the process by which each project was selected;

(ii) the factors that went into the selection of each project; and

(iii) the justification for the selection of each project based on the criteria described in subsection (e).

(3) INSPECTOR GENERAL.—

(A) ASSESSMENT.—The Inspector General of the Department shall conduct an assessment of the establishment, solicitation, selection, and justification process with respect to the funding of projects under this section.

(B) INITIAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Inspector General of the Department shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the initial results of the assessment conducted under subparagraph (A).

(C) FINAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Inspector General of the Department shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a final report that describes the findings of the Inspector General of the Department with respect to the assessment conducted under subparagraph (A).

(l) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate final regulations implementing the program authorized under this section.

(2) INTERIM PROVISIONS.—Until the date on which the Secretary promulgates final regulations under paragraph (1), any amounts made available under subsection (i) to carry out this section shall be distributed in accordance with—

(A) the guidance and policies developed for the distribution of grants under the program using the notice of funding availability entitled ''Notice of Funding Availability for the Department of Transportation's National Infrastructure Investments Under the Full-Year Continuing Appropriations, 2012; and Request for Comments'' (77 Fed. Reg. 4863 (January 31, 2012));or

(B) such guidance and policies as subsequently revised and updated.

Subtitle B—Performance Management

SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.

Section 134 of title 23, United States Code, is amended to read as follows:

''§ 134. Metropolitan transportation planning

''(a) POLICY.—It is in the national interest—

''(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and statewide transportation planning processes identified in this title;

''(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transportation and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 135(d);

''(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

''(4) to maximize the effectiveness of transportation investments.

''(b) DEFINITIONS.—In this section and section 135, the following definitions shall apply:

''(1) EXISTING MPO.—The term 'existing MPO' means a metropolitan planning organization that was designated as a metropolitan planning organization on the day before the date of enactment of the MAP–21.

''(2) LOCAL OFFICIAL.—The term 'local official' means any elected or appointed official

of general purpose local government with responsibility for transportation in a designated area.

''(3) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

''(4) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

''(5) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the policy board of an organization established pursuant to subsection (c).

''(6) METROPOLITAN TRANSPORTATION PLAN.—The term 'metropolitan transportation plan' means a plan developed by a metropolitan planning organization under subsection (i).

''(7) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

''(8) NONMETROPOLITAN AREA.—

''(A) IN GENERAL.—The term 'nonmetropolitan area' means a geographical area outside the boundaries of a designated metropolitan planning area.

''(B) INCLUSIONS.—The term 'nonmetropolitan area' includes—

''(i) a small urbanized area with a population of more than 50,000, but fewer than 200,000, individuals, as calculated according to the most recent decennial census; and

''(ii) a nonurbanized area.

''(9) NONMETROPOLITAN PLANNING ORGANIZATION.—The term 'nonmetropolitan planning organization' means an organization that—

''(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the MAP-21; and

''(B) is not designated as a tier I MPO or tier II MPO.

''(10) REGIONALLY SIGNIFICANT.—The term 'regionally significant', with respect to a transportation project, program, service, or strategy, means a project, program, service, or strategy that—

''(A) serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, and major planned developments); and

''(B) would normally be included in the modeling of a transportation network of a metropolitan area.

''(11) RURAL PLANNING ORGANIZATION.—The term 'rural planning organization' means an organization that—

''(A) is responsible for the planning, coordination, and implementation of statewide transportation plans and programs outside of a metropolitan area, with an emphasis on addressing the needs of rural areas of the State; and

''(B) is not designated as a tier I or tier II metropolitan planning organization or a nonmetropolitan planning organization.

''(12) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'statewide transportation improvement program' means a statewide transportation improvement program developed by a State under section 135(g).

''(13) STATEWIDE TRANSPORTATION PLAN.—The term 'statewide transportation plan' means a plan developed by a State under section 135(f).

''(14) TIER I MPO.—The term 'tier I MPO' means a metropolitan planning organization designated as a tier I MPO under subsection (e)(4)(A).

''(15) TIER II MPO.—The term 'tier II MPO' means a metropolitan planning organization designated as a tier I MPO under subsection (e)(4)(B).

''(16) TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'transportation improvement program' means a program developed by a metropolitan planning organization under subsection (j).

''(17) URBANIZED AREA.—The term 'urbanized area' means a geographical area with a population of 50,000 or more individuals, as calculated according to the most recent decennial census.

''(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

''(1) IN GENERAL.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census—

''(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); or

''(B) in accordance with procedures established by applicable State or local law.

''(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated for any urbanized area with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census—

''(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); and

''(B) with the consent of the Secretary, based on a finding that the resulting metropolitan planning organization has met the minimum requirements under subsection (e)(4)(B).

''(3) STRUCTURE.—Not later than 1 year after the date of enactment of the MAP-21, a metropolitan planning organization shall consist of—

''(A) elected local officials in the relevant metropolitan area;

''(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

''(C) appropriate State officials.

''(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

''(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

''(B) to develop capital plans, coordinate public transportation services and projects, or carry out other activities pursuant to State law.

''(5) CONTINUING DESIGNATION.—

''(A) POPULATION OF 200,000 OR MORE.—A designation of an existing MPO for an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, shall remain in effect—

''(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

''(ii) until the date on which the existing MPO is redesignated under paragraph (6); and

''(B) POPULATION OF FEWER THAN 200,000.—A designation of an existing MPO for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

''(i) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

''(ii) the Secretary determines 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule.

''(C) EXTENSION.—If the applicable Governor, acting on behalf of a metropolitan planning organization for an urbanized area with a population of less than 200,000 that would otherwise be terminated under subparagraph (B), requests a probationary continuation before the termination of the metropolitan planning organization, the Secretary shall—

''(i) delay the termination of the metropolitan planning organization under subparagraph (B) for a period of 1 year; and

''(ii) provide additional technical assistance to all metropolitan planning organizations provided an extension under this paragraph to assist the metropolitan planning organization in meeting the minimum requirements under subsection (e)(4)(B)(i).

''(D) DESIGNATION AS TIER II MPO.—If the Secretary determines that the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

''(6) REDESIGNATION.—

''(A) IN GENERAL.—The designation of a metropolitan planning organization under this subsection shall remain in effect until the date on which the metropolitan planning organization is redesignated, as appropriate, in accordance with the requirements of this subsection pursuant to an agreement between—

''(i) the applicable Governor; and

''(ii) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census).

''(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (3) without undertaking a redesignation.

''(7) ABSENCE OF DESIGNATION.—

''(A) IN GENERAL.—A metropolitan planning organization that is the subject of a negative determination of the Secretary under paragraph (5)(B)(ii) shall submit to the State in which the metropolitan planning organization is located, or to a planning organization designated by the State, by not later than 180 days after the date on which a notice of the negative determination is received, a 6-month plan that includes a description of a method—

''(i) to transfer the responsibilities of the metropolitan planning organization to the State; and

''(ii) to dissolve the metropolitan planning organization.

''(B) ACTION ON DISSOLUTION.—On submission of a plan under subparagraph (A), the

metropolitan planning area served by the applicable metropolitan planning organization shall—

''(i) continue to receive metropolitan transportation planning funds until the earlier of—

''(I) the date of dissolution of the metropolitan planning organization; and

''(II) the date that is 4 years after the date of enactment of the MAP–21; and

''(ii) be treated by the State as a nonmetropolitan area for purposes of this title.

''(8) DESIGNATION OF MULTIPLE MPOS.—

''(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

''(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of which shall be served by the existing MPO or a new metropolitan planning organization.

''(C) TIER DESIGNATION.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size of each respective metropolitan planning area, in accordance with subsection (e)(4).

''(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

''(1) IN GENERAL.—For purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the applicable metropolitan planning organization and the Governor of the State in which the metropolitan planning area is located.

''(2) INCLUDED AREA.—Each metropolitan planning area—

''(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a 20-year forecast period under the applicable metropolitan transportation plan; and

''(B) may encompass the entire relevant metropolitan statistical area, as defined by the Office of Management and Budget.

''(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

''(4) NONATTAINMENT AND MAINTENANCE AREAS.—

''(A) EXISTING METROPOLITAN PLANNING AREAS.—

''(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the MAP–21, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

''(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with paragraph (1).

''(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the MAP–21, the boundaries of the applicable metropolitan planning area—

''(i) shall be established in accordance with subsection (c)(1);

''(ii) shall encompass the areas described in paragraph (2)(A);

''(iii) may encompass the areas described in paragraph (2)(B); and

''(iv) may address any appropriate nonattainment area or maintenance area.

''(e) REQUIREMENTS.—

''(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improvement programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h).

''(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

''(A) an intermodal transportation system for the metropolitan planning area; and

''(B) an integral part of an intermodal transportation system for the applicable State and the United States.

''(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

''(A) provide for consideration of all modes of transportation; and

''(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

''(4) TIERING.—

''(A) TIER I MPOS.—

''(i) IN GENERAL.—A metropolitan planning organization shall be designated as a tier I MPO if—

''(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individuals, as calculated according to the most recent decennial census; and

''(II) the Secretary determines the metropolitan planning organization—

''(aa) meets the minimum technical requirements under clause (iv); and

''(bb) not later than 2 years after the date of enactment of the MAP–21, will fully implement the processes described in subsections (h) though (j).

''(ii) ABSENCE OF DESIGNATION.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

''(iii) REDESIGNATION AS TIER I.—A metropolitan planning organization operating within a metropolitan planning area with a population of 200,000 or more and fewer than 1,000,000 individuals and primarily within urbanized areas with populations of 200,000 or more individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has met the minimum technical requirements under clause (iv).

''(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall issue a rule that establishes the minimum technical requirements necessary for a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

''(B) TIER II MPOS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall issue a rule that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

''(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

''(I) ensure that each metropolitan planning organization has the capabilities necessary to develop the metropolitan transportation plan and transportation improvement program under this section; and

''(II) include—

''(aa) only the staff resources necessary to operate the metropolitan planning organization; and

''(bb) a requirement that the metropolitan planning organization has the technical capacity to conduct the modeling necessary, as appropriate based on the size and resources of the metropolitan planning organization, to fulfill the requirements of this section, except that in cases in which a metropolitan planning organization has a formal agreement with a State to conduct the modeling on behalf of the metropolitan planning organization, the metropolitan planning organization shall be exempt from the technical capacity requirement.

''(iii) INCLUSION.—A metropolitan planning organization operating primarily within an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, and that does not qualify as a tier I MPO under subparagraph (A)(i), shall—

''(I) be designated as a tier II MPO; and

''(II) follow the processes under subsection (k).

''(C) CONSOLIDATION.—

''(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous, adjacent, or geographically linked urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

''(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

''(f) COORDINATION IN MULTISTATE AREAS.—

''(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

''(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

''(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any

relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 135.

''(g) ENGAGEMENT IN METROPOLITAN TRANSPORTATION PLAN AND TIP DEVELOPMENT.—

''(1) NONATTAINMENT AND MAINTENANCE AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with all other metropolitan planning organizations designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

''(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement project funded under this title or chapter 53 of title 49 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

''(3) COORDINATION OF ADJACENT PLANNING ORGANIZATIONS.—

''(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

''(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

''(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

''(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, tribal, State, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, nonmotorized users, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

''(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

''(i) recipients of assistance under sections 202, 203, and 204;

''(ii) recipients of assistance under chapter 53 of title 49;

''(iii) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

''(iv) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

''(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

''(h) SCOPE OF PLANNING PROCESS.—

''(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

''(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, travel and tourism (where applicable), productivity, and efficiency;

''(B) increase the safety of the transportation system for motorized and nonmotorized users;

''(C) increase the security of the transportation system for motorized and nonmotorized users;

''(D) increase the accessibility and mobility of individuals and freight;

''(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

''(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

''(G) increase efficient system management and operation; and

''(H) emphasize the preservation of the existing transportation system.

''(2) PERFORMANCE-BASED APPROACH.—

''(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of this title and in section 5301(c) of title 49.

''(B) PERFORMANCE TARGETS.—

''(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

''(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k), where applicable, and 167(i) to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

''(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

''(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Each metropolitan planning organization shall adopt the performance targets identified by providers of public transportation pursuant to sections 5326(c) and 5329(d) of title 49, for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

''(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 90 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

''(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State plans and processes, as well as asset management and safety plans developed by providers of public transportation, required as part of a performance-based program, including plans such as—

''(i) the State National Highway System asset management plan;

''(ii) asset management plans developed by providers of public transportation;

''(iii) the State strategic highway safety plan;

''(iv) safety plans developed by providers of public transportation;

''(v) the congestion mitigation and air quality performance plan, where applicable;

''(vi) the national freight strategic plan; and

''(vii) the statewide transportation plan.

''(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan transportation plan and transportation improvement program.

''(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation improvement program, a project or strategy, or the certification of a planning process.

''(4) PARTICIPATION BY INTERESTED PARTIES.—

''(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties (including State representatives of nonmotorized users) notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

''(B) CONTENTS OF PARTICIPATION PLAN.—Each metropolitan planning organization shall establish a participation plan that—

''(i) is developed in consultation with interested parties and local officials; and

''(ii) provides that interested parties and local officials shall have reasonable opportunities to comment on the contents of the metropolitan transportation plan of the metropolitan planning organization.

''(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

''(i) develop the metropolitan transportation plan and transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the community and interested parties (including State representatives of nonmotorized users) that participate in the development of the metropolitan transportation plan and transportation improvement program;

''(ii) hold any public meetings at times and locations that are, as applicable—

''(I) convenient; and

''(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(iii) employ visualization techniques to describe metropolitan transportation plans and transportation improvement programs; and

''(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

''(i) DEVELOPMENT OF METROPOLITAN TRANSPORTATION PLAN.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the MAP–21, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropolitan planning area in accordance with this section.

''(B) EXCEPTIONS.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

''(i) a nonattainment area; or

''(ii) a maintenance area.

''(2) OTHER REQUIREMENTS.—A metropolitan transportation plan under this section shall—

''(A) be in a form that the Secretary determines to be appropriate;

''(B) have a term of not less than 20 years; and

''(C) contain, at a minimum—

''(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

''(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

''(iii) a description of the current and projected future usage of the transportation system, including a projection based on a preferred scenario, and further including, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

''(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

''(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

''(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

''(aa) the projects included in the transportation improvement program; and

''(bb) the projects that have been removed from the previous transportation improvement program; and

''(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the costs necessary to achieve the identified performance targets;

''(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation systems deployment, and technology adoption strategies, as determined by the projected support of the performance targets described in subsection (h)(2);

''(vi) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure, including strategies and investments based on a preferred scenario, when appropriate;

''(vii) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (4);

''(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

''(ix) an optional illustrative list of projects containing investments that—

''(I) are not included in the metropolitan transportation plan; but

''(II) would be so included if resources in addition to the resources identified in the financial plan under paragraph (4) were available;

''(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan; and

''(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

''(3) SCENARIO DEVELOPMENT.—

''(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of its community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

''(B) COMPONENTS OF SCENARIOS.—The scenarios—

''(i) shall include potential regional investment strategies for the planning horizon;

''(ii) shall include assumed distribution of population and employment;

''(iii) may include a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

''(iv) may include a scenario that improves the baseline conditions for as many of the performance measures identified in subsection (h)(2) as possible;

''(v) shall be revenue constrained based on the total revenues expected to be available over the forecast period of the plan; and

''(vi) may include estimated costs and potential revenues available to support each scenario.

''(C) METRICS.—In addition to the performance measures identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally-developed metrics for the following categories:

''(i) Congestion and mobility, including transportation use by mode.

''(ii) Freight movement.

''(iii) Safety.

''(iv) Efficiency and costs to taxpayers.

''(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—

''(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

''(B) contain a description of each of the following:

''(i) Projected resource requirements for implementing projects, strategies, and services recommended in the metropolitan transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

''(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

''(iii) Estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan.

''(iv) Each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(6) PUBLICATION.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

''(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet; and

''(B) submitted for informational purposes to the applicable Governor.

''(7) CONSULTATION.—

''(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with Federal, tribal, State, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a metropolitan transportation plan.

''(B) ISSUES.—The consultation under subparagraph (A) shall involve, as available, consideration of—

''(i) metropolitan transportation plans with Federal, tribal, State, and local conservation plans or maps; and

''(ii) inventories of natural or historic resources.

''(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the metropolitan transportation plan under paragraph (2)(C)(ix).

''(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—In cooperation with the applicable State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the metropolitan planning area that—

''(i) contains projects consistent with the current metropolitan transportation plan;

''(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

''(iii) once implemented, will make significant progress toward achieving the performance targets established under subsection (h)(2).

''(B) OPPORTUNITY FOR PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

''(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

''(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 135; and

''(ii) approved by the applicable Governor.

''(2) CONTENTS.—

''(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

''(B) DESCRIPTIONS.—Each project described in the transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that the project or project phase will have in addressing the targets described in subsection (h)(2).

''(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

''(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

''(i) are not included in the transportation improvement program; but

''(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

''(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

''(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

''(B) contain a description of each of the following:

''(i) Projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

''(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

''(iii) Estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the transportation improvement program.

''(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(4) INCLUDED PROJECTS.—

''(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A transportation improvement program developed under this subsection for a metropolitan area shall include a description of the projects within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

''(B) PROJECTS UNDER CHAPTER 2.—

''(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

''(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the transportation improvement program.

''(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

''(6) SELECTION OF PROJECTS.—

''(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(2) and suballocated to the metropolitan planning area under section 133(d).

''(B) PROJECTS UNDER CHAPTER 53 OF TITLE 49.—In the case of projects under chapter 53 of title 49, the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program, by the designated recipients of public transportation funding in cooperation with the metropolitan planning organization.

''(C) CMAQ PROJECTS.—Each tier I MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(4) and suballocated to the metropolitan planning area under section 149(j).

''(D) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in a transportation improvement program in place of another project in the transportation improvement program.

''(7) PUBLICATION.—

''(A) IN GENERAL.—A transportation improvement program shall be published or otherwise made readily available by the applicable metropolitan planning organization for public review in electronically accessible formats and means, such as the Internet.

''(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant transportation improvement program.

''(k) PLANNING REQUIREMENTS FOR TIER II MPOS.—

''(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—

''(A) the complexity of transportation needs in the area; and

''(B) the technical capacity of the metropolitan planning organization.

''(2) EVALUATION OF PERFORMANCE-BASED PLANNING.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

''(A) addresses the performance targets described in subsection (h)(2); and

''(B) demonstrates progress on the achievement of those performance targets.

''(l) CERTIFICATION.—

''(1) IN GENERAL.—The Secretary shall—

''(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

''(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.

''(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

''(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law;

''(B) representation on the metropolitan planning organization board includes officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

''(C) a transportation improvement program for the metropolitan planning area has been approved by the relevant metropolitan planning organization and applicable Governor.

''(3) DELEGATION OF AUTHORITY.—The Secretary may—

''(A) delegate to the appropriate State fact-finding authority regarding the certification of a tier II MPO under this subsection; and

''(B) make the certification under paragraph (1) in consultation with the State.

''(4) EFFECT OF FAILURE TO CERTIFY.—

''(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the

funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.

''(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

''(5) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

''(m) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

''(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the following:

''(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the performance targets specified in subsection (h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

''(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

''(C) The extent to which the metropolitan planning organization—

''(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

''(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

''(2) REPORT.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP–21, the Secretary shall submit to Congress a report evaluating—

''(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

''(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

''(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

''(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles, unless the owner or operator of the project demonstrates that the project will achieve or make substantial progress toward achieving the performance targets described in subsection (h)(2).

''(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area within the boundaries of a metropolitan planning area, as determined under subsection (c).

''(o) EFFECT OF SECTION.—Nothing in this section provides to any metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this title or chapter 53 of title 49.

''(p) FUNDING.—Funds apportioned under section 104(b)(6) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

''(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—

''(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

''(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;

''(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

''(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates by not later than 2 years after the date of issuance of guidance by the Secretary.''.

SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 135 of title 23, United States Code, is amended to read as follows:

''§ 135. Statewide and nonmetropolitan transportation planning

''(a) STATEWIDE TRANSPORTATION PLANS AND STIPS.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—To accomplish the policy objectives described in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

''(B) INCORPORATION OF METROPOLITAN TRANSPORTATION PLANS AND TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans and transportation improvement programs, respectively, for each metropolitan planning area in the State.

''(C) NONMETROPOLITAN AREAS.—Each State shall consult with local officials in small urbanized areas with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and nonurbanized areas of the State in preparing the nonmetropolitan portions of statewide transportation plans and statewide transportation improvement programs.

''(2) CONTENTS.—The statewide transportation plan and statewide transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

''(A) an intermodal transportation system for the State; and

''(B) an integral part of an intermodal transportation system for the United States.

''(3) PROCESS.—The process for developing the statewide transportation plan and statewide transportation improvement program shall—

''(A) provide for consideration of all modes of transportation; and

''(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

''(b) COORDINATION AND CONSULTATION.—

''(1) IN GENERAL.—Each State shall—

''(A) coordinate planning carried out under this section with—

''(i) the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

''(ii) statewide trade and economic development planning activities and related multistate planning efforts;

''(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

''(C) consult on planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

''(D) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(2) MULTISTATE AREAS.—

''(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

''(B) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

''(C) INTERSTATE COMPACTS.—For purposes of this section, any 2 or more States—

''(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

''(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

''(iii) are encouraged to enter into such compacts, agreements, or organizations as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected in statewide transportation improvement programs and statewide transportation plans.

''(D) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal any interstate compact or agreement entered into under this subsection is expressly reserved.

''(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

''(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, tribal, State, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

''(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

''(A) recipients of assistance under sections 202, 203, and 204;

''(B) recipients of assistance under chapter 53 of title 49;

''(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

''(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

''(d) SCOPE OF PLANNING PROCESS.—

''(1) IN GENERAL.—The statewide transportation planning process for a State under this section shall provide for consideration of projects, strategies, and services that will—

''(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, travel and tourism (where applicable), productivity, and efficiency;

''(B) increase the safety of the transportation system for motorized and nonmotorized users;

''(C) increase the security of the transportation system for motorized and nonmotorized users;

''(D) increase the accessibility and mobility of individuals and freight;

''(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

''(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

''(G) increase efficient system management and operation; and

''(H) emphasize the preservation of the existing transportation system.

''(2) PERFORMANCE-BASED APPROACH.—

''(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 150(b) of this title and section 5301(c) of title 49.

''(B) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

''(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), and 167(i) to use in tracking attainment of critical outcomes for the region of the State.

''(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

''(C) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—For providers of public transportation operating in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, each State shall adopt the performance targets identified by such providers of public transportation pursuant to sections 5326(c) and 5329(d) of title 49 for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

''(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and performance targets described in this paragraph in other State plans and processes, and asset management and safety plans developed by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program, including plans such as—

''(i) the State National Highway System asset management plan;

''(ii) asset management plans developed by providers of public transportation;

''(iii) the State strategic highway safety plan;

''(iv) safety plans developed by providers of public transportation; and

''(v) the national freight strategic plan.

''(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

''(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

''(4) PARTICIPATION BY INTERESTED PARTIES.—

''(A) IN GENERAL.—Each State shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

''(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

''(i) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

''(ii) hold any public meetings at times and locations that are, as applicable—

''(I) convenient; and

''(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(iii) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

''(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

''(e) COORDINATION AND CONSULTATION.—

''(1) METROPOLITAN AREAS.—

''(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incorporating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization designated for the metropolitan area under section 134—

''(i) all regionally significant projects to be carried out during the 10-year period beginning on the effective date of the relevant existing metropolitan transportation plan; and

''(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

''(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes of metropolitan financial planning and fiscal constraint.

''(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation, including providers of public transportation.

''(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

''(A) the tribal government; and

''(B) the Secretary of the Interior.

''(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with the relevant Federal land management agency.

''(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

''(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, tribal, State, and local agencies responsible for land use management, natural resources, infrastructure permitting, environmental protection, conservation, and historic preservation.

''(B) COMPARISON AND CONSIDERATION.—Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

''(i) Federal, tribal, State, and local conservation plans or maps; and

''(ii) inventories of natural or historic resources.

''(f) STATEWIDE TRANSPORTATION PLAN.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

''(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for the first 10-year period of the statewide

transportation plan, the identification of existing and future transportation facilities that will function as an integrated statewide transportation system, giving emphasis to those facilities that serve important national, statewide, and regional transportation functions.

''(C) SUBSEQUENT PERIOD.—For the second 10-year period of the statewide transportation plan (referred to in this subsection as the 'outer years period'), a statewide transportation plan—

''(i) may include identification of future transportation facilities; and

''(ii) shall describe the policies and strategies that provide for the development and implementation of the intermodal transportation system of the State.

''(D) OTHER REQUIREMENTS.—A statewide transportation plan shall—

''(i) include, for the 20-year period covered by the statewide transportation plan, a description of—

''(I) the projected aggregate cost of projects anticipated by a State to be implemented; and

''(II) the revenues necessary to support the projects;

''(ii) include, in such form as the Secretary determines to be appropriate, a description of—

''(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

''(II) the performance measures and performance targets used in assessing the existing and future performance of the transportation system described in subsection (d)(2);

''(III) the current and projected future usage of the transportation system, including, to the maximum extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

''(IV) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2) and updates to subsequent system performance reports, including—

''(aa) progress achieved by the State in meeting performance targets, as compared to system performance recorded in previous reports; and

''(bb) an accounting of the performance by the State on outlay of obligated project funds and delivery of projects that have reached substantial completion, in relation to the projects currently on the statewide transportation improvement program and those projects that have been removed from the previous statewide transportation improvement program;

''(V) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, land use improvements, intelligent transportation systems deployment and technology adoption strategies as determined by the projected support of performance targets described in subsection (d)(2);

''(VI) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure;

''(VII) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (2);

''(VIII) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

''(IX) an optional illustrative list of projects containing investments that—

''(aa) are not included in the statewide transportation plan; but

''(bb) would be so included if resources in addition to the resources identified in the financial plan under paragraph (2) were available;

''(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

''(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

''(iii) be updated by the State not less frequently than once every 5 years.

''(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

''(A) be prepared by each State to support the statewide transportation plan; and

''(B) contain a description of each of the following:

''(i) Projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

''(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

''(iii) Estimates of future funds, to be developed cooperatively by the State, any public transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation plan.

''(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(v) For the outer years period of the statewide transportation plan, a description of the aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands.

''(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—For any nonmetropolitan area that is a nonattainment area or maintenance area, the State shall coordinate the development of the statewide transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal participation programs, projects, and strategies shall be published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

''(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a State shall not be required to select any project from the illustrative list of additional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

''(6) USE OF POLICY PLANS.—Notwithstanding any other provision of this section, a State that has in effect, as of the date of enactment of the MAP-21, a statewide transportation plan that follows a policy plan approach—

''(A) may, for 4 years after the date of enactment of the MAP–21, continue to use a policy plan approach to the statewide transportation plan; and

''(B) shall be subject to the requirements of this subsection only to the extent that such requirements were applicable under this section (as in effect on the day before the date of enactment of the MAP-21).

''(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—In consultation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall develop a statewide transportation improvement program for the State that—

''(i) includes projects consistent with the statewide transportation plan;

''(ii) reflects the investment priorities established in the statewide transportation plan; and

''(iii) once implemented, makes significant progress toward achieving the performance targets described in subsection (d)(2).

''(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation with affected public transportation operators, shall provide an opportunity for participation by interested parties (including State representatives of nonmotorized users) in the development of the statewide transportation improvement program, in accordance with subsection (e).

''(C) OTHER REQUIREMENTS.—

''(i) IN GENERAL.—A statewide transportation improvement program shall—

''(I) cover a period of not less than 4 years; and

''(II) be updated not less frequently than once every 4 years, or more frequently, as the Governor determines to be appropriate.

''(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 134, without change.

''(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

''(I) consistent with the statewide transportation plan developed under this section for the State;

''(II) identical to a project or phase of a project described in a relevant transportation improvement program; and

''(III) for any project located in a nonattainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).

''(2) CONTENTS.—

''(A) PRIORITY LIST.—A statewide transportation improvement program shall include a

priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

''(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, estimated completion date, and other similar factors) to identify—

''(i) the project or project phase; and

''(ii) the effect that the project or project phase will have in addressing the performance targets described in subsection (d)(2).

''(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

''(D) ILLUSTRATIVE LIST OF PROJECTS.—An optional illustrative list of projects may be prepared containing additional investment priorities that—

''(i) are not included in the statewide transportation improvement program; but

''(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

''(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

''(A) be prepared by each State to support the statewide transportation improvement program; and

''(B) contain a description of each of the following:

''(i) Projected resource requirements for implementing projects, strategies, and services recommended in the statewide transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

''(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

''(iii) Estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program.

''(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(4) INCLUDED PROJECTS.—

''(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A statewide transportation improvement program developed under this subsection for a State shall include the projects within the State that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

''(B) PROJECTS UNDER CHAPTER 2.—

''(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 shall be identified individually in the statewide transportation improvement program.

''(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the statewide transportation improvement program.

''(5) PUBLICATION.—

''(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

''(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and relevant metropolitan planning organizations in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

''(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPOS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and that are not represented by designated metropolitan planning organizations, shall be selected, from the approved statewide transportation improvement program (including projects carried out on the National Highway System and other projects carried out under this title or under sections 5310 and 5311 of title 49) by the State, in cooperation with the affected nonmetropolitan planning organization, if any exists, and in consultation with the affected nonmetropolitan area local officials with responsibility for transportation.

''(7) APPROVAL BY SECRETARY.—

''(A) IN GENERAL.—Not less frequently than once every 4 years, a statewide transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary, based on the current planning finding of the Secretary under subparagraph (B).

''(B) PLANNING FINDING.—The Secretary shall make a planning finding referred to in subparagraph (A) not less frequently than once every 5 years regarding whether the transportation planning process through which statewide transportation plans and statewide transportation improvement programs are developed is consistent with this section and section 134.

''(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

''(h) CERTIFICATION.—

''(1) IN GENERAL.—The Secretary shall—

''(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with applicable Federal law; and

''(B) subject to paragraph (2), certify, not less frequently than once every 5 years, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

''(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

''(A) the statewide transportation planning process complies with the requirements of this section and other applicable Federal law; and

''(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

''(3) EFFECT OF FAILURE TO CERTIFY.—

''(A) WITHHOLDING OF PROJECT FUNDS.—If a statewide transportation planning process of a State is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State for projects funded under this title and chapter 53 of title 49.

''(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

''(4) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

''(i) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

''(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

''(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

''(B) The extent to which the State has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

''(C) The extent to which the State—

''(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

''(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

''(2) REPORT.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP–21, the Secretary shall submit to Congress a report evaluating—

''(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

''(ii) the effectiveness of the performance-based planning process of each State.

''(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

''(j) FUNDING.—Funds apportioned under section 104(b)(6) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

''(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

''(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

''(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

''(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

''(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 135 and inserting the following:

''135. Statewide and nonmetropolitan transportation planning.''.

SEC. 1203. NATIONAL GOALS.

(a) IN GENERAL.—Section 150 of title 23, United States Code, is amended to read as follows:

''§ 150. National goals

''(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

''(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

''(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.

''(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

''(3) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

''(4) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

''(5) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.

''(6) REDUCED PROJECT DELIVERY DELAYS.—To reduce project costs, promote jobs and the economy, and expedite the movement of people and goods by accelerating project completion through eliminating delays in the project development and delivery process, including reducing regulatory burdens and improving agencies' work practices.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150 and inserting the following:

''150. National goals.''.

Subtitle C—Acceleration of Project Delivery

SEC. 1301. PROJECT DELIVERY INITIATIVE.

(a) DECLARATION OF POLICY.—It is the policy of the United States that—

(1) it is in the national interest for the Department, State departments of transportation, transit agencies, and all other recipients of Federal transportation funds—

(A) to accelerate project delivery and reduce costs; and

(B) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner, promoting accountability for public investments and encouraging greater private sector involvement in project financing and delivery while enhancing safety and protecting the environment;

(2) delay in the delivery of transportation projects increases project costs, harms the economy of the United States, and impedes the travel of the people of the United States and the shipment of goods for the conduct of commerce; and

(3) the Secretary shall identify and promote the deployment of innovation aimed at reducing the time and money required to deliver transportation projects while enhancing safety and protecting the environment.

(b) ESTABLISHMENT OF INITIATIVE.—

(1) IN GENERAL.—To advance the policy described in subsection (a), the Secretary shall carry out a project delivery initiative under this section.

(2) PURPOSES.—The purposes of the project delivery initiative shall be—

(A) to develop and advance the use of best practices to accelerate project delivery and reduce costs across all modes of transportation and expedite the deployment of technology and innovation;

(B) to implement provisions of law designed to accelerate project delivery; and

(C) to select eligible projects for applying experimental features to test innovative project delivery techniques.

(3) ADVANCING THE USE OF BEST PRACTICES.—

(A) IN GENERAL.—In carrying out the initiative under this section, the Secretary shall identify and advance best practices to reduce delivery time and project costs, from planning through construction, for transportation projects and programs of projects regardless of mode and project size.

(B) ADMINISTRATION.—To advance the use of best practices, the Secretary shall—

(i) engage interested parties, affected communities, resource agencies, and other stakeholders to gather information regarding opportunities for accelerating project delivery and reducing costs;

(ii) establish a clearinghouse for the collection, documentation, and advancement of existing and new innovative approaches and best practices;

(iii) disseminate information through a variety of means to transportation stakeholders on new innovative approaches and best practices; and

(iv) provide technical assistance to assist transportation stakeholders in the use of flexibility authority to resolve project delays and accelerate project delivery if feasible.

(4) IMPLEMENTATION OF ACCELERATED PROJECT DELIVERY.—The Secretary shall ensure that the provisions of this subtitle designed to accelerate project delivery are fully implemented, including—

(A) expanding eligibility of early acquisition of property prior to completion of environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) allowing the use of the construction manager or general contractor method of contracting in the Federal-aid highway system; and

(C) establishing a demonstration program to streamline the relocation process by permitting a lump-sum payment for acquisition and relocation if elected by the displaced occupant.

SEC. 1302. CLARIFIED ELIGIBILITY FOR EARLY ACQUISITION ACTIVITIES PRIOR TO COMPLETION OF NEPA REVIEW.

(a) IN GENERAL.—The acquisition of real property in anticipation of a federally assisted or approved surface transportation project that may use the property shall not be prohibited prior to the completion of reviews of the surface transportation project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the acquisition does not—

(1) have an adverse environmental effect; or

(2)(A) limit the choice of reasonable alternatives for the proposed project; or

(B) prevent the lead agency from making an impartial decision as to whether to select an alternative that is being considered during the environmental review process.

(b) EARLY ACQUISITION OF REAL PROPERTY INTERESTS FOR HIGHWAYS.—Section 108 of title 23, United States Code, is amended—

(1) in the section heading by inserting ''**interests**'' after ''**real property**'';

(2) in subsection (a) by inserting ''interests'' after ''real property'' each place it appears; and

(3) in subsection (c)—

(A) in the subsection heading by striking ''RIGHTS-OF-WAY'' and inserting ''REAL PROPERTY INTERESTS'';

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by inserting ''at any time'' after ''may be used''; and

(ii) in subparagraph (A)—

(I) by striking ''rights-of-way'' the first place it appears and inserting ''real property interests''; and

(II) by striking '', if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds''; and

(C) by striking paragraph (2) and inserting the following:

''(2) TERMS AND CONDITIONS.—

''(A) ACQUISITION OF REAL PROPERTY INTERESTS.—

''(i) IN GENERAL.—Subject to the other provisions of this section, prior to completion of the review process for the project required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), a public authority may carry out acquisition of real property interests that may be used for a project.

''(ii) REQUIREMENTS.—An acquisition under clause (i) may be authorized by project agreement and is eligible for Federal-aid reimbursement as a project expense if the Secretary finds that the acquisition—

''(I) will not cause any significant adverse environmental impact;

''(II) will not limit the choice of reasonable alternatives for the project or otherwise influence the decision of the Secretary on any approval required for the project;

''(III) does not prevent the lead agency from making an impartial decision as to whether to accept an alternative that is being considered in the environmental review process;

''(IV) is consistent with the State transportation planning process under section 135;

''(V) complies with other applicable Federal laws (including regulations);

''(VI) will be acquired through negotiation, without the threat of condemnation; and

''(VII) will not result in a reduction or elimination of benefits or assistance to a displaced person required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

''(B) DEVELOPMENT.—Real property interests acquired under this subsection may not be developed in anticipation of a project until all required environmental reviews for the project have been completed.

''(C) REIMBURSEMENT.—If Federal-aid reimbursement is made for real property interests acquired early under this section and the real property interests are not subsequently incorporated into a project eligible for surface transportation funds within the time allowed by subsection (a)(2), the Secretary shall offset the amount reimbursed against funds apportioned to the State.

''(D) OTHER CONDITIONS.—The Secretary may establish such other conditions or restrictions on acquisitions as the Secretary determines to be appropriate.''.

SEC. 1303. EFFICIENCIES IN CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended by adding at the end the following:

''(4) CONSTRUCTION MANAGER; GENERAL CONTRACTOR.—

''(A) PROCEDURE.—

''(i) IN GENERAL.—A contracting agency may award a 2-phase contract to a construction manager or general contractor for preconstruction and construction services.

''(ii) PRECONSTRUCTION PHASE.—In the preconstruction phase of a contract under this subparagraph, the construction manager shall provide the contracting agency with advice relating to scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.

''(iii) AGREEMENT TO PRICE.—

''(I) IN GENERAL.—Prior to the start of the second phase of a contract under this subparagraph, the owner and the construction manager may agree to a price for the construction of the project or a portion of the project.

''(II) RESULT.—If an agreement is reached, the construction manager shall become the general contractor for the construction of the project at the negotiated schedule and price.

''(B) SELECTION.—A contract shall be awarded to a construction manager or general contractor under this paragraph using a competitive selection process under which the contract is awarded on the basis of—

''(i) qualifications;

''(ii) experience;

''(iii) best value; or

''(iv) any other combination of factors considered appropriate by the contracting agency.

''(C) TIMING.—

''(i) IN GENERAL.—Prior to the completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), a contracting agency may issue requests for proposals, proceed with the award of the first phase of construction manager or general contractor contract, and issue notices to proceed with preliminary design, to the extent that those actions do not limit any reasonable range of alternatives.

''(ii) NEPA PROCESS.—

''(I) IN GENERAL.—A contracting agency shall not proceed with the award of the second phase, and shall not proceed, or permit any consultant or contractor to proceed, with final design or construction until completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(II) REQUIREMENT.—The Secretary shall require that a contract include appropriate provisions to ensure achievement of the objectives of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and compliance with other applicable Federal laws and regulations occurs.

''(iii) SECRETARIAL APPROVAL.—Prior to authorizing construction activities, the Secretary shall approve—

''(I) the estimate of the contracting agency for the entire project; and

''(II) any price agreement with the general contractor for the project or a portion of the project.

''(iv) TERMINATION PROVISION.—The Secretary shall require a contract to include an appropriate termination provision in the event that a no-build alternative is selected.''.

(b) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out the amendment made by subsection (a).

(c) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendment made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning construction manager risk that is being carried out by the Secretary as of the date of enactment of this Act.

SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.

(a) DECLARATION OF POLICY.—

(1) IN GENERAL.—Congress declares that it is in the national interest to promote the use of innovative technologies and practices that increase the efficiency of construction of, improve the safety of, and extend the service life of highways and bridges.

(2) INCLUSIONS.—The innovative technologies and practices described in paragraph (1) include state-of-the-art intelligent transportation system technologies, elevated performance standards, and new highway construction business practices that improve highway safety and quality, accelerate project delivery, and reduce congestion related to highway construction.

(b) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended by adding at the end the following:

''(3) INNOVATIVE PROJECT DELIVERY.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share payable on account of a project or activity carried out with funds apportioned under paragraph (1), (2), or (5) of section 104(b) may, at the discretion of the State, be up to 100 percent for any such project, program, or activity that the Secretary determines—

''(i) contains innovative project delivery methods that improve work zone safety for motorists or workers and the quality of the facility;

''(ii) contains innovative technologies, manufacturing processes, financing, or contracting methods that improve the quality, extend the service life, or decrease the long-term costs of maintaining highways and bridges;

''(iii) accelerates project delivery while complying with other applicable Federal laws (including regulations) and not causing any significant adverse environmental impact; or

''(iv) reduces congestion related to highway construction.

''(B) EXAMPLES.—Projects, programs, and activities described in subparagraph (A) may include the use of—

''(i) prefabricated bridge elements and systems and other technologies to reduce bridge construction time;

''(ii) innovative construction equipment, materials, or techniques, including the use of in-place recycling technology and digital 3-dimensional modeling technologies;

''(iii) innovative contracting methods, including the design-build and the construction manager-general contractor contracting methods;

''(iv) intelligent compaction equipment; or

''(v) contractual provisions that offer a contractor an incentive payment for early completion of the project, program, or activity, subject to the condition that the incentives are accounted for in the financial plan of the project, when applicable.

''(C) LIMITATIONS.—

''(i) IN GENERAL.—In each fiscal year, a State may use the authority under subparagraph (A) for up to 10 percent of the combined apportionments of the State under paragraphs (1), (2), and (5) of section 104(b).

''(ii) FEDERAL SHARE INCREASE.—The Federal share payable on account of a project or activity described in subparagraph (A) may be increased by up to 5 percent of the total project cost.''.

SEC. 1305. ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.

Section 139(j) of title 23, United States Code, is amended by adding at the end the following:

''(6) MEMORANDUM OF UNDERSTANDING.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under paragraphs (1) and (2), the affected Federal agency and the State agency shall enter into a memorandum of understanding that establishes the projects and priorities to be addressed by the use of the funds.''.

SEC. 1306. APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.

(a) IN GENERAL.—Section 304 of title 49, United States Code, is amended to read as follows:

''§ 304. Application of categorical exclusions for multimodal projects

''(a) DEFINITIONS.—In this section:

''(1) COOPERATING AUTHORITY.—The term 'cooperating authority' means a Department of Transportation operating authority that is not the lead authority.

''(2) LEAD AUTHORITY.—The term 'lead authority' means a Department of Transportation operating administration or secretarial office that—

''(A) is the lead authority over a proposed multimodal project; and

''(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

''(i) satisfy the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures of the lead authority; and

''(ii) do not require the preparation of an environmental assessment or an environmental impact statement under that Act.

''(3) MULTIMODAL PROJECT.—The term 'multimodal project' has the meaning given the term in section 139(a) of title 23.

''(b) EXERCISE OF AUTHORITIES.—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title.

''(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—When considering the environmental impacts of a proposed multimodal project, a lead authority may apply a categorical exclusion designated under the implementing regulations or procedures of a cooperating authority for other components of the project, on the conditions that—

''(1) the multimodal project is funded under 1 grant agreement administered by the lead authority;

''(2) the multimodal project has components that require the expertise of a cooperating authority to assess the environmental impacts of the components;

''(3) the component of the project to be covered by the categorical exclusion of the cooperating authority has independent utility;

''(4) the cooperating authority, in consultation with the lead authority, follows National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures and determines that a categorical exclusion under that Act applies to the components; and

''(5) the lead authority has determined that—

''(A) the project, using the categorical exclusions of the lead and cooperating authorities, does not individually or cumulatively have a significant impact on the environment; and

''(B) extraordinary circumstances do not exist that merit further analysis and documentation in an environmental impact statement or environmental assessment required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(d) MODAL COOPERATION.—

''(1) IN GENERAL.—A cooperating authority shall provide modal expertise to a lead authority with administrative authority over a multimodal project on such aspects of the project in which the cooperating authority has expertise.

''(2) USE OF CATEGORICAL EXCLUSION.—In a case described in paragraph (1), the 1 or more categorical exclusions of a cooperating authority may be applied by the lead authority once the cooperating authority reviews the project on behalf of the lead authority and determines the project satisfies the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures of the cooperating authority and this section.''.

(b) CONFORMING AMENDMENT.—The item relating to section 304 in the analysis for title 49, United States Code, is amended to read as follows:

''304. Application of categorical exclusions for multimodal projects.''.

SEC. 1307. STATE ASSUMPTION OF RESPONSIBILITIES FOR CATEGORICAL EXCLUSIONS.

Section 326 of title 23, United States Code, is amended—

(1) by striking subsection (d) and inserting the following:

''(d) TERMINATION.—

''(1) TERMINATION BY THE SECRETARY.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

''(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.''; and

(2) by adding at the end the following:

''(f) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys fees directly attributable to eligible activities associated with the project.''.

SEC. 1308. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.

(a) IN GENERAL.—Section 327 of title 23, United States Code, is amended—

(1) in the section heading by striking ''pilot'';

(2) in subsection (a)—

(A) in paragraph (1) by striking ''pilot''; and

(B) in paragraph (2)—

(i) in subparagraph (B) by striking clause (ii) and inserting the following:

''(ii) the Secretary may not assign—

''(I) any responsibility imposed on the Secretary by section 134 or 135; or

''(II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506).''; and

(ii) by adding at the end the following:

''(F) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this section for a specific project may use funds apportioned to the State under section 104(b)(2) for attorneys fees directly attributable to eligible activities associated with the project.'';

(3) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(C) in subparagraph (A) of paragraph (3) (as so redesignated) by striking ''(2)'' and inserting ''(1)'';

(4) in subsection (c)—

(A) in paragraph (3)(D) by striking the period at the end and inserting a semicolon; and

(B) by adding at the end the following:

''(4) require the State to provide to the Secretary any information the Secretary considers necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State;

''(5) require the Secretary—

''(A) after a period of 5 years, to evaluate the ability of the State to carry out the responsibility assumed under this section;

''(B) if the Secretary determines that the State is not ready to effectively carry out the responsibilities the State has assumed, to reevaluate the readiness of the State every 3 years, or at such other frequency as the Secretary considers appropriate, after the initial 5-year evaluation, until the State is ready to assume the responsibilities on a permanent basis; and

''(C) once the Secretary determines that the State is ready to permanently assume the responsibilities of the Secretary, not to require any further evaluations; and

''(6) require the State to provide the Secretary with any information, including regular written reports, as the Secretary may require in conducting evaluations under paragraph (5).'';

(5) by striking subsection (g);

(6) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively; and

(7) in subsection (h) (as so redesignated)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1); and

(C) by inserting after paragraph (1) (as so redesignated) the following:

''(2) TERMINATION BY THE STATE.—The State may terminate the participation of the State in the program at any time by providing to the Secretary a notice by not later than the date that is 90 days before the date of termination, and subject to such terms and conditions as the Secretary may provide.''.

(b) CONFORMING AMENDMENT.—The item relating to section 327 in the analysis of title 23, United States Code, is amended to read as follows:

''327. Surface transportation project delivery program.''.

SEC. 1309. CATEGORICAL EXCLUSION FOR PROJECTS WITHIN THE RIGHT-OF-WAY.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking for a categorical exclusion that meets the definitions (as in effect on that date) of section 1508.4 of title 40, Code of Federal Regulations, and section 771.117 of title 23, Code of Federal Regulations, for a project (as defined in section 101(a) of title 23, United States Code)—

(1) that is located solely within the right-of-way of an existing highway, such as new turn lanes and bus pull-offs;

(2) that does not include the addition of a through lane or new interchange; and

(3) for which the project sponsor demonstrates that the project—

(A) is intended to improve safety, alleviate congestion, or improve air quality; or

(B) would improve or maintain pavement or structural conditions or achieve a state of good repair.

(b) NOTICE.—Not later than 60 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to further define and implement subsection (a) within subsection (c) or (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21).

SEC. 1310. PROGRAMMATIC AGREEMENTS AND ADDITIONAL CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall—

(1) survey the use by the Department of Transportation of categorical exclusions in transportation projects since 2005;

(2) publish a review of the survey that includes a description of—

(A) the types of actions categorically excluded; and

(B) any requests previously received by the Secretary for new categorical exclusions; and

(3) solicit requests from State departments of transportation, transit authorities, metropolitan planning organizations, or other government agencies for new categorical exclusions.

(b) NEW CATEGORICAL EXCLUSIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to propose new categorical exclusions received by the Secretary under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations and section 771.117(a) of title 23, Code of Federal Regulations (as those regulations are in effect on the date of the notice).

(c) ADDITIONAL ACTIONS.—The Secretary shall issue a proposed rulemaking to move the following types of actions from subsection (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to subsection (c) of that section, to the extent that such movement complies with the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act):

(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (including parking, weaving, turning, and climbing).

(2) Highway safety or traffic operations improvement projects, including the installation of ramp metering control devices and lighting.

(3) Bridge rehabilitation, reconstruction, or replacement or the construction of grade

separation to replace existing at-grade railroad crossings.

(d) PROGRAMMATIC AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall seek opportunities to enter into programmatic agreements with the States that establish efficient administrative procedures for carrying out environmental and other required project reviews.

(2) INCLUSIONS.—Programmatic agreements authorized under paragraph (1) may include agreements that allow a State to determine on behalf of the Federal Highway Administration whether a project is categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) DETERMINATIONS.—An agreement described in paragraph (2) may include determinations by the Secretary of the types of projects categorically excluded (consistent with section 1508.4 of title 40, Code of Federal Regulations) in the State in addition to the types listed in subsections (c) and (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act).

SEC. 1311. ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—When preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency makes changes in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant further agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, on the condition that the errata sheets—

(1) cite the sources, authorities, or reasons that support the position of the agency; and

(2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(b) INCORPORATION.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision unless—

(1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

(2) there are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action.

SEC. 1312. MEMORANDA OF AGENCY AGREEMENTS FOR EARLY COORDINATION.

(a) IN GENERAL.—It is the sense of Congress that—

(1) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other and other agencies on environmental review and project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, head off potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

(2) such cooperation should include the development of policies and the designation of staff that advise planning agencies or project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(b) TECHNICAL ASSISTANCE.—If requested at any time by a State or local planning agency, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or local planning agency on accomplishing the early coordination activities described in subsection (d).

(c) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State, and local governments and other appropriate entities to accomplish the early coordination activities described in subsection (d).

(d) EARLY COORDINATION ACTIVITIES.—Early coordination activities shall include, to the maximum extent practicable, the following:

(1) Technical assistance on identifying potential impacts and mitigation issues in an integrated fashion.

(2) The potential appropriateness of using planning products and decisions in later environmental reviews.

(3) The identification and elimination from detailed study in the environmental review process of the issues that are not significant or that have been covered by prior environmental reviews.

(4) The identification of other environmental review and consultation requirements so that the lead and cooperating agencies may prepare, as appropriate, other required analyses and studies concurrently with planning activities.

(5) The identification by agencies with jurisdiction over any permits related to the project of any and all relevant information that will reasonably be required for the project.

(6) The reduction of duplication between requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and State and local planning and environmental review requirements, unless the agencies are specifically barred from doing so by applicable law.

(7) Timelines for the completion of agency actions during the planning and environmental review processes.

(8) Other appropriate factors.

SEC. 1313. ACCELERATED DECISIONMAKING.

Section 139(h) of title 23, United States Code, is amended by striking paragraph (4) and inserting the following:

''(4) INTERIM DECISION ON ACHIEVING ACCELERATED DECISIONMAKING.—

''(A) IN GENERAL.—Not later than 30 days after the close of the public comment period on a draft environmental impact statement, the Secretary may convene a meeting with the project sponsor, lead agency, resource agencies, and any relevant State agencies to ensure that all parties are on schedule to meet deadlines for decisions to be made regarding the project.

''(B) DEADLINES.—The deadlines referred to in subparagraph (A) shall be those established under subsection (g), or any other deadlines established by the lead agency, in consultation with the project sponsor and other relevant agencies.

''(C) FAILURE TO ASSURE.—If the relevant agencies cannot provide reasonable assurances that the deadlines described in subparagraph (B) will be met, the Secretary may initiate the issue resolution and referral process described under paragraph (5) and before the completion of the record of decision.

''(5) ACCELERATED ISSUE RESOLUTION AND REFERRAL.—

''(A) AGENCY ISSUE RESOLUTION MEETING.—

''(i) IN GENERAL.—A Federal agency of jurisdiction, project sponsor, or the Governor of a State in which a project is located may request an issue resolution meeting to be conducted by the lead agency.

''(ii) ACTION BY LEAD AGENCY.—The lead agency shall convene an issue resolution meeting under clause (i) with the relevant participating agencies and the project sponsor, including the Governor only if the meeting was requested by the Governor, to resolve issues that could—

''(I) delay completion of the environmental review process; or

''(II) result in denial of any approvals required for the project under applicable laws.

''(iii) DATE.—A meeting requested under this subparagraph shall be held by not later than 21 days after the date of receipt of the request for the meeting, unless the lead agency determines that there is good cause to extend the time for the meeting.

''(iv) NOTIFICATION.—On receipt of a request for a meeting under this subparagraph, the lead agency shall notify all relevant participating agencies of the request, including the issue to be resolved, and the date for the meeting.

''(v) DISPUTES.—If a relevant participating agency with jurisdiction over an approval required for a project under applicable law determines that the relevant information necessary to resolve the issue has not been obtained and could not have been obtained within a reasonable time, but the lead agency disagrees, the resolution of the dispute shall be forwarded to the heads of the relevant agencies for resolution.

''(vi) CONVENTION BY LEAD AGENCY.—A lead agency may convene an issue resolution meeting under this subsection at any time without the request of the Federal agency of jurisdiction, project sponsor, or the Governor of a State.

''(B) ELEVATION OF ISSUE RESOLUTION.—

''(i) IN GENERAL.—If issue resolution is not achieved by not later than 30 days after the date of a relevant meeting under subparagraph (A), the Secretary shall notify the lead agency, the heads of the relevant participating agencies, and the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor) that an issue resolution meeting will be convened.

''(ii) REQUIREMENTS.—The Secretary shall identify the issues to be addressed at the meeting and convene the meeting not later than 30 days after the date of issuance of the notice.

''(C) REFERRAL OF ISSUE RESOLUTION.—

''(i) REFERRAL TO COUNCIL ON ENVIRONMENTAL QUALITY.—

''(I) IN GENERAL.—If resolution is not achieved by not later than 30 days after the date of an issue resolution meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

''(II) MEETING.—Not later than 30 days after the date of receipt of a referral from the Secretary under subclause (I), the Council on Environmental Quality shall hold an issue resolution meeting with the lead agency, the heads of relevant participating agencies, and the project sponsor (including the Governor only if an initial request for an issue resolution meeting came from the Governor).

''(ii) REFERRAL TO THE PRESIDENT.—If a resolution is not achieved by not later than 30 days after the date of the meeting convened by the Council on Environmental Quality under clause (i)(II), the Secretary shall refer the matter directly to the President.

''(6) FINANCIAL TRANSFER PROVISIONS.—

''(A) IN GENERAL.—A Federal agency of jurisdiction over an approval required for a project under applicable laws shall complete any required approval on an expeditious basis using the shortest existing applicable process.

''(B) FAILURE TO DECIDE.—

''(i) IN GENERAL.—If an agency described in subparagraph (A) fails to render a decision under any Federal law relating to a project that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, or other approval by the date described in clause (ii), the agency shall transfer from the applicable office of the head of the agency, or equivalent office to which the authority for rendering the decision has been delegated by law, to the agency or division charged with rendering a decision regarding the application, by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C)—

''(I) $20,000 for any project for which an annual financial plan under section 106(i) is required; or

''(II) $10,000 for any other project requiring preparation of an environmental assessment or environmental impact statement.

''(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—

''(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

''(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(C) LIMITATIONS.—

''(i) IN GENERAL.—No transfer of funds under subparagraph (B) relating to an individual project shall exceed, in any fiscal year, an amount equal to 1 percent of the funds made available for the applicable agency office.

''(ii) FAILURE TO DECIDE.—The total amount transferred in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 5 percent of the funds made available for the applicable agency office for that fiscal year.

''(D) TREATMENT.—The transferred funds shall only be available to the agency or division charged with rendering the decision as additional resources, pursuant to subparagraph (F).

''(E) NO FAULT OF AGENCY.—A transfer of funds under this paragraph shall not be made if the agency responsible for rendering the decision certifies that—

''(i) the agency has not received necessary information or approvals from another entity, such as the project sponsor, in a manner that affects the ability of the agency to meet any requirements under State, local, or Federal law; or

''(ii) significant new information or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application.

''(F) TREATMENT OF FUNDS.—

''(i) IN GENERAL.—Funds transferred under this paragraph shall supplement resources available to the agency or division charged with making a decision for the purpose of expediting permit reviews.

''(ii) AVAILABILITY.—Funds transferred under this paragraph shall be available for use or obligation for the same period that the funds were originally authorized or appropriated, plus 1 additional fiscal year.

''(iii) LIMITATION.—The Federal agency with jurisdiction for the decision that has transferred the funds pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

''(G) AUDITS.—In any fiscal year in which any Federal agency transfers funds pursuant to this paragraph, the Inspector General of that agency shall—

''(i) conduct an audit to assess compliance with the requirements of this paragraph; and

''(ii) not later than 120 days after the end of the fiscal year during which the transfer occurred, submit to the Committee on Environment and Public Works of the Senate and any other appropriate congressional committees a report describing the reasons why the transfers were levied, including allocations of resources.

''(H) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

''(I) AUTHORITY FOR INTRA-AGENCY TRANSFER OF FUNDS.—The requirement provided under this paragraph for a Federal agency to transfer or reallocate funds of the Federal agency in accordance with subparagraph (B)(i)—

''(i) shall be treated by the Federal agency as a requirement and authority consistent with any applicable original law establishing and authorizing the agency; but

''(ii) does not provide to the Federal agency the authority to require or determine the intra-agency transfer or reallocation of funds that are provided to or are within any other Federal agency.

''(7) EXPEDIENT DECISIONS AND REVIEWS.—To ensure that Federal environmental decisions and reviews are expeditiously made—

''(A) adequate resources made available under this title shall be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are completed on an expeditious basis and that the shortest existing applicable process under that Act is implemented; and

''(B) the President shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, not less frequently than once every 120 days after the date of enactment of the MAP–21, a report on the status and progress of the following projects and activities funded under this title with respect to compliance with applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

''(i) Projects and activities required to prepare an annual financial plan under section 106(i).

''(ii) A sample of not less than 5 percent of the projects requiring preparation of an environmental impact statement or environmental assessment in each State.''.

SEC. 1314. ENVIRONMENTAL PROCEDURES INITIATIVE.

(a) ESTABLISHMENT.—For grant programs under which funds are distributed by formula by the Department of Transportation, the Secretary shall establish an initiative to review and develop consistent procedures for environmental permitting and procurement requirements.

(b) REPORT.—The Secretary shall publish the results of the initiative described in subsection (a) in an electronically accessible format.

SEC. 1315. ALTERNATIVE RELOCATION PAYMENT DEMONSTRATION PROGRAM.

(a) PAYMENT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Except as otherwise provided in this section, for the purpose of identifying improvements in the timeliness of providing relocation assistance to persons displaced by Federal or federally assisted programs and projects, the Secretary may allow not more than 5 States to participate in an alternative relocation payment demonstration program under which payments to displaced persons eligible for relocation assistance pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) (including implementing regulations), are calculated based on reasonable estimates and paid in advance of the physical displacement of the displaced person.

(2) TIMING OF PAYMENTS.—Relocation assistance payments for projects carried out under an approved State demonstration program may be provided to the displaced person at the same time as payments of just compensation for real property acquired for the program or project of the State.

(3) COMBINING OF PAYMENTS.—Payments for relocation and just compensation may be combined into a single unallocated amount.

(b) CRITERIA.—

(1) IN GENERAL.—After public notice and an opportunity to comment, the Secretary shall adopt criteria for carrying out the alternative relocation payment demonstration program.

(2) CONDITIONS.—

(A) IN GENERAL.—Conditions for State participation in the demonstration program shall include the conditions described in subparagraphs (B) through (E).

(B) MEMORANDUM OF AGREEMENT.—A State wishing to participate in the demonstration program shall be required to enter into a memorandum of agreement with the Secretary that includes provisions relating to—

(i) the selection of projects or programs within the State to which the alternative relocation payment process will be applied;

(ii) program and project-level monitoring;

(iii) performance measurement;

(iv) reporting; and

(v) the circumstances under which the Secretary may terminate the demonstration program of the State before the end of the program term.

(C) TERM OF DEMONSTRATION PROGRAM.—Except as provided in subparagraph (B)(v), the demonstration program of the State may continue for up to 3 years after the date on which the Secretary executes the memorandum of agreement.

(D) DISPLACED PERSONS.—

(i) IN GENERAL.—Displaced persons affected by a project included in the demonstration program of the State shall be informed in writing in a format that is clear and easily understandable that the relocation payments that the displaced persons receive under the demonstration program may be higher or lower than the amount that the displaced persons would receive under the standard relocation assistance process.

(ii) ALTERNATIVE PROCESS.—Displaced persons shall be informed—

(I) of the right of the displaced persons not to participate in the demonstration program; and

(II) that the alternative relocation payment process can be used only if the displaced person agrees in writing.

(iii) ASSISTANCE.—The displacing agency shall provide any displaced person who elects not to participate in the demonstration program with relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) (including implementing regulations).

(E) OTHER DISPLACEMENTS.—

(i) IN GENERAL.—If other Federal agencies plan displacements in or adjacent to a demonstration program project area within the same time period as the project acquisition and relocation actions of the demonstration program, the Secretary shall adopt measures to protect against inconsistent treatment of displaced persons.

(ii) INCLUSION.—Measures described in clause (i) may include a determination that

the demonstration program authority may not be used on a particular project.

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit to Congress—

(A) at least every 18 months after the date of enactment of this Act, a report on the progress and results of the demonstration program; and

(B) not later than 1 year after all State demonstration programs have ended, a final report.

(2) REQUIREMENTS.—The final report shall include an evaluation by the Secretary of the merits of the alternative relocation payment demonstration program, including the effects of the demonstration program on—

(A) displaced persons and the protections afforded to displaced persons by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.);

(B) the efficiency of the delivery of Federal-aid highway projects and overall effects on the Federal-aid highway program; and

(C) the achievement of the purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(d) LIMITATION.—The authority of this section may be used only on projects funded under title 23, United States Code, in cases in which the funds are administered by the Federal Highway Administration.

(e) AUTHORITY.—The authority of the Secretary to approve an alternate relocation payment demonstration program for a State terminates on the date that is 3 years after the date of enactment of this Act

SEC. 1316. REVIEW OF FEDERAL PROJECT AND PROGRAM DELIVERY.

(a) COMPLETION TIME ASSESSMENTS AND REPORTS.—

(1) IN GENERAL.—For projects funded under title 23, United States Code, the Secretary shall compare—

(A)(i) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated after calendar year 2005; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during a period prior to calendar year 2005; and

(B)(i) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during the period beginning on January 1, 2005, and ending on the date of enactment of this Act; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated after the date of enactment of this Act.

(2) REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report—

(A) not later than 1 year after the date of enactment of this Act that—

(i) describes the results of the review conducted under paragraph (1)(A); and

(ii) identifies any change in the timing for completions, including the reasons for any such change and the reasons for delays in excess of 5 years; and

(B) not later than 5 years after the date of enactment of this Act that—

(i) describes the results of the review conducted under paragraph (1)(B); and

(ii) identifies any change in the timing for completions, including the reasons for any such change and the reasons for delays in excess of 5 years.

(b) ADDITIONAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the types and justification for the additional categorical exclusions granted under the authority provided under sections 1309 and 1310.

(c) GAO REPORT.—The Comptroller General of the United States shall—

(1) assess the reforms carried out under sections 1301 through 1315 (including the amendments made by those sections); and

(2) not later than 5 years after the date of enactment of this Act, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the results of the assessment.

(d) INSPECTOR GENERAL REPORT.—The Inspector General of the Department of Transportation shall—

(1) assess the reforms carried out under sections 1301 through 1315 (including the amendments made by those sections); and

(2) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) not later than 2 years after the date of enactment of this Act, an initial report of the findings of the Inspector General; and

(B) not later than 4 years after the date of enactment of this Act, a final report of the findings.

Subtitle D—Highway Safety

SEC. 1401. JASON'S LAW.

(a) IN GENERAL.—It is the sense of Congress that it is a national priority to address projects under this section for the shortage of long-term parking for commercial motor vehicles on the National Highway System to improve the safety of motorized and nonmotorized users and for commercial motor vehicle operators.

(b) ELIGIBLE PROJECTS.—Eligible projects under this section are those that—

(1) serve the National Highway System; and

(2) may include the following:

(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

(c) SURVEY AND COMPARATIVE ASSESSMENT.—

(1) IN GENERAL.—The Secretary, in consultation with relevant State motor carrier safety personnel, shall conduct a survey regarding the availability of parking facilities within each State—

(A) to evaluate the capability of the State to provide adequate parking and rest facilities for motor carriers engaged in interstate motor carrier service;

(B) to assess the volume of motor carrier traffic through the State; and

(C) to develop a system of metrics to measure the adequacy of parking facilities in the State.

(2) RESULTS.—The results of the survey under paragraph (1) shall be made available to the public on the website of the Department of Transportation.

(3) PERIODIC UPDATES.—The Secretary shall periodically update the survey under this subsection.

(d) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded through the authority provided under this section shall be treated as projects on a Federal-aid highway under chapter 1 of title 23, United States Code.

SEC. 1402. OPEN CONTAINER REQUIREMENTS.

Section 154(c) of title 23, United States Code, is amended—

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

''(2) FISCAL YEAR 2012 AND THEREAFTER.—

''(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing an open container law described in subsection (b), the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1) and paragraph (3).

''(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

''(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

''(ii) release the reserved funds identified by the State as described in paragraph (3).'';

(2) by striking paragraph (3) and inserting the following:

''(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

''(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.'';

and

(3) by striking paragraph (5) and inserting the following:

''(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (2) may be derived from the following:

''(A) The apportionment of the State under section 104(b)(1).

''(B) The apportionment of the State under section 104(b)(2).''.

SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) DEFINITIONS.—Section 164(a) of title 23, United States Code, is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(3) in paragraph (4) (as so redesignated) by striking subparagraph (A) and inserting the following:

''(A) receive—

''(i) a suspension of all driving privileges for not less than 1 year; or

''(ii) a suspension of unlimited driving privileges for 1 year, allowing for the reinstatement of limited driving privileges subject to restrictions and limited exemptions as established by State law, if an ignition interlock device is installed for not less than 1 year on each of the motor vehicles owned or operated, or both, by the individual;''.

(b) TRANSFER OF FUNDS.—Section 164(b) of title 23, United States Code, is amended—

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

''(2) FISCAL YEAR 2012 AND THEREAFTER.—

''(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the States will use those reserved funds among the uses authorized under subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

''(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

''(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

''(ii) release the reserved funds identified by the State as described in paragraph (3).'';

(2) by striking paragraph (3) and inserting the following:

''(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

''(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.''; and

(3) by striking paragraph (5) and inserting the following:

''(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (2) may be derived from the following:

''(A) The apportionment of the State under section 104(b)(1).

''(B) The apportionment of the State under section 104(b)(2).''.

SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.

(a) VEHICLE WEIGHT LIMITATIONS.—Section 127(a)(1) of title 23, United States Code, is amended by striking ''No funds shall be apportioned in any fiscal year under section 104(b)(1) of this title to any State which'' and inserting ''The Secretary shall withhold 50 percent of the apportionment of a State under section 104(b)(1) in any fiscal year in which the State''.

(b) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended—

(1) in subsection (b), in the first sentence—

(A) by striking ''10 per centum'' and inserting ''7 percent''; and

(B) by striking ''section 104 of this title'' and inserting ''paragraphs (1) through (5) of section 104(b)''; and

(2) by adding at the end the following:

''(n) For purposes of this section, the terms 'primary system' and 'Federal-aid primary system' mean any highway that is on the National Highway System, which includes the Interstate Highway System.''.

(c) ENFORCEMENT OF VEHICLE SIZE AND WEIGHT LAWS.—Section 141(b)(2) of title 23, United States Code, is amended—

(1) by striking ''10 per centum'' and inserting ''7 percent''; and

(2) by striking ''section 104 of this title'' and inserting ''paragraphs (1) through (5) of section 104(b)''.

(d) PROOF OF PAYMENT OF THE HEAVY VEHICLE USE TAX.—Section 141(c) of title 23, United States Code, is amended—

(1) by striking ''section 104(b)(4)'' each place it appears and inserting ''section 104(b)(1)''; and

(2) in the first sentence by striking ''25 per centum'' and inserting '' 8 percent''.

(e) USE OF SAFETY BELTS.—Section 153(h) of title 23, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated)—

(A) by striking the paragraph heading and inserting ''PRIOR TO FISCAL YEAR 2012''; and

(B) by inserting ''and before October 1, 2011,'' after ''September 30, 1994,''; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

''(2) FISCAL YEAR 2012 AND THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 2011, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer an amount equal to 2 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1) through (3) of section 104(b) to the apportionment of the State under section 402.''.

(f) NATIONAL MINIMUM DRINKING AGE.—Section 158(a)(1) of title 23, United States Code, is amended—

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

''(A) FISCAL YEARS BEFORE 2012.—The Secretary''; and

(2) by adding at the end the following:

''(B) FISCAL YEAR 2012 AND THEREAFTER.—For fiscal year 2012 and each fiscal year thereafter, the amount to be withheld under this section shall be an amount equal to 8 percent of the amount apportioned to the noncompliant State, as described in subparagraph (A), under paragraphs (1) and (2) of section 104(b).''.

(g) DRUG OFFENDERS.—Section 159 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1);

(C) in paragraph (1) (as so redesignated) by striking ''(including any amounts withheld under paragraph (1))''; and

(D) by inserting after paragraph (1) (as so redesignated) the following:

''(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8 percent of the amount required to be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on the first day of each fiscal year beginning after September 30, 2011, if the State fails to meet the requirements of paragraph (3) on the first day of the fiscal year.''; and

(2) by striking subsection (b) and inserting the following:

''(b) EFFECT OF NONCOMPLIANCE.—No funds withheld under this section from apportionments to any State shall be available for apportionment to that State.''.

(h) ZERO TOLERANCE BLOOD ALCOHOL CONCENTRATION FOR MINORS.—Section 161(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated)—

(A) by striking the paragraph heading and inserting ''PRIOR TO FISCAL YEAR 2012''; and

(B) by inserting ''through fiscal year 2011'' after ''each fiscal year thereafter''; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

''(2) FISCAL YEAR 2012 AND THEREAFTER.—The Secretary shall withhold an amount equal to 8 percent of the amount required to be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on October 1, 2011, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.''.

(i) OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.—Section 163(e) of title 23, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) FISCAL YEARS 2007 THROUGH 2011.—On October 1, 2006, and October 1 of each fiscal year thereafter through fiscal year 2011, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 8 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).

''(2) FISCAL YEAR 2012 AND THEREAFTER.—On October 1, 2011, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 6 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b).''.

(j) COMMERCIAL DRIVER'S LICENSE.—Section 31314 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

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

''(c) PENALTIES IMPOSED IN FISCAL YEAR 2012 AND THEREAFTER.—Effective beginning on October 1, 2011—

''(1) the penalty for the first instance of noncompliance by a State under this section shall be not more than an amount equal to 4 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23; and

''(2) the penalty for subsequent instances of noncompliance shall be not more than an amount equal to 8 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23.''.

SEC. 1405. HIGHWAY WORKER SAFETY.

Not later than 60 days after the date of enactment of this Act, the Secretary shall modify section 630.1108(a) of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that—

(1) at a minimum, positive protective measures are used to separate workers on highway construction projects from motorized traffic in all work zones conducted under traffic in areas that offer workers no means of escape (such as tunnels and bridges), unless an engineering study determines otherwise;

(2) temporary longitudinal traffic barriers are used to protect workers on highway construction projects in long-duration stationary work zones when the project design speed is anticipated to be high and the nature of the work requires workers to be within 1 lane-width from the edge of a live travel lane, unless—

(A) an analysis by the project sponsor determines otherwise; or

(B) the project is outside of an urbanized area and the annual average daily traffic load of the applicable road is less than 100 vehicles per hour; and

(3) when positive protective devices are necessary for highway construction projects,

those devices are paid for on a unit-pay basis, unless doing so would create a conflict with innovative contracting approaches, such as design-build or some performance-based contracts under which the contractor is paid to assume a certain risk allocation and payment is generally made on a lump-sum basis.

SEC. 1406. GUARDRAIL SAFETY AND COST STUDY.

(a) DEFINITIONS OF TYPE I GUARDRAIL AND TYPE II GUARDRAIL.—In this section, the terms ''Type I guardrail'' and ''Type II guardrail'' have the meaning given those terms in AASHTO Designation M-180-11, except that—

(1) the term ''Type I guardrail'' means only Type I guardrail that is galvanized prior to fabrication; and

(2) the term ''Type II guardrail'' means only Type II guardrail that is galvanized after fabrication.

(b) STUDY.—The Secretary shall conduct a study regarding the safety and cost of guardrails in accordance with this section.

(c) SUBJECT MATTER.—

(1) IN GENERAL.—The study shall include an evaluation of the relative safety and lifecycle cost of Type I guardrail and Type II guardrail.

(2) SAFETY EVALUATION.—The evaluation of relative safety described in paragraph (1) shall include consideration of whether there is a relationship between severity of crash outcomes, in terms of fatalities, injuries, or damage, and the use of different guardrail types.

(3) LIFECYCLE COST.—The evaluation of the lifecycle cost of different guardrail types described in paragraph (1) shall include consideration of a range of time periods, including a minimum 30-year period.

(d) METHODS.—In carrying out the study under this section, the Secretary shall—

(1) consider guardrail-related crash data and other relevant actual experience in the use of different types of guardrails, including whether there is a relationship between severity of crash outcomes and the use of different guardrail types;

(2) consider prior research and other sources of information;

(3) consult with manufacturers of guardrails, State and local transportation officials with responsibility for the purchase or maintenance of guardrails, associations representing those entities, and such other experts as the Secretary determines to be appropriate; and

(4) undertake, to the extent the Secretary determines to be appropriate, independent research or materials testing or take other steps to collect and analyze data and information.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study under this section, including—

(1) any findings by the Secretary regarding differences in the relative safety and lifecycle cost of Type I guardrail and Type II guardrail; and

(2) any recommendations by the Secretary relating to safety and lifecycle cost of guardrails, including any recommendations as to whether any difference in the relative safety and lifecycle cost of Type I guardrail and Type II guardrail warrants limiting eligibility to use Federal funds for guardrail to guardrail meeting certain characteristics.

Subtitle E—Miscellaneous

SEC. 1501. PROGRAM EFFICIENCIES.

The first sentence of section 102(b) of title 23, United States Code, is amended by striking ''made available for such engineering'' and inserting ''reimbursed for the preliminary engineering''.

SEC. 1502. PROJECT APPROVAL AND OVERSIGHT.

Section 106 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by inserting ''recipient'' before ''formalizing'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the heading, by striking ''NON-INTERSTATE''; and

(ii) by striking ''but not on the Interstate System''; and

(B) by striking paragraph (4) and inserting the following:

''(4) LIMITATION ON INTERSTATE PROJECTS.—

''(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a high risk category, as defined under subparagraph (B).

''(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.'';

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i)—

(aa) by striking ''concept'' and inserting ''planning''; and

(bb) by striking ''multidisciplined'' and inserting ''multidisciplinary''; and

(II) by striking clause (i) and inserting the following:

''(i) providing the needed functions and achieving the established commitments (including environmental, community, and agency commitments) safely, reliably, and at the lowest overall lifecycle cost;''; and

(ii) in subparagraph (B) by striking clause (ii) and inserting the following:

''(ii) refining or redesigning, as appropriate, the project using different technologies, materials, or methods so as to accomplish the purpose, functions, and established commitments (including environmental, community, and agency commitments) of the project.'';

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A) by striking ''or other cost-reduction analysis'';

(ii) in subparagraph (A) by striking ''Federal-aid system'' and inserting ''National Highway System receiving Federal assistance''; and

(iii) in subparagraph (B) by inserting ''on the National Highway System receiving Federal assistance'' after ''a bridge project''; and

(C) by striking paragraph (4) and inserting the following:

''(4) REQUIREMENTS.—

''(A) VALUE ENGINEERING PROGRAM.—The State shall develop and carry out a value engineering program that—

''(i) establishes and documents value engineering program policies and procedures;

''(ii) ensures that the required value engineering analysis is conducted before completing the final design of a project;

''(iii) ensures that the value engineering analysis that is conducted, and the recommendations developed and implemented for each project, are documented in a final value engineering report; and

''(iv) monitors, evaluates, and annually submits to the Secretary a report that describes the results of the value analyses that are conducted and the recommendations implemented for each of the projects described in paragraph (2) that are completed in the State.

''(B) BRIDGE PROJECTS.—The value engineering analysis for a bridge project under paragraph (2) shall—

''(i) include bridge superstructure and substructure requirements based on construction material; and

''(ii) be evaluated by the State—

''(I) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

''(II) using an analysis of lifecycle costs and duration of project construction.'';

(4) in subsection (g)(4) by adding at the end the following:

''(C) FUNDING.—

''(i) IN GENERAL.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under section 104(b)(2) for carrying out the responsibilities of the State under subparagraph (A).

''(ii) ELIGIBLE ACTIVITIES.—Activities eligible for assistance under this subparagraph include—

''(I) State administration of subgrants; and

''(II) State oversight of subrecipients.

''(iii) ANNUAL WORK PLAN.—To receive the funding flexibility made available under this subparagraph, the State shall submit to the Secretary an annual work plan identifying activities to be carried out under this subparagraph during the applicable year.

''(iv) FEDERAL SHARE.—The Federal share of the cost of activities carried out under this subparagraph shall be 100 percent.''; and

(5) in subsection (h)—

(A) in paragraph (1)(B) by inserting '', including a phasing plan when applicable'' after ''financial plan''; and

(B) by striking paragraph (3) and inserting the following:

''(3) FINANCIAL PLAN.—A financial plan—

''(A) shall be based on detailed estimates of the cost to complete the project;

''(B) shall provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project; and

''(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135.''.

SEC. 1503. STANDARDS.

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

(1) in subsection (a)—

(A) in paragraph (1) by striking ''and'' at the end;

(B) in paragraph (2) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) utilize, when appropriate, practical design solutions, as defined in this section, to ensure that transportation needs are met and that funds available for transportation projects are used efficiently.'';

(2) in subsection (c)—

(A) in paragraph (1), in the matter preceding subparagraph (A)—

(i) by striking '', reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation'' and inserting ''or reconstruction''; and

(ii) by striking ''may take into account'' and inserting ''shall consider'';

(B) in paragraph (2)—

(i) in the first sentence of the matter preceding subparagraph (A) by striking ''may'' and inserting ''shall'';

(ii) in subparagraph (C) by striking ''and'' at the end;

(iii) by redesignating subparagraph (D) as subparagraph (F); and

(iv) by inserting after subparagraph (C) the following:

''(D) the publication entitled 'Highway Safety Manual' of the American Association of State Highway and Transportation Officials;

''(E) the publication entitled 'A Guide for Achieving Flexibility in Highway Design, 1st Edition', published by the American Association of State Highway and Transportation Officials; and'';

(3) in subsection (f) by inserting ''pedestrian walkways,'' after ''bikeways,'';

(4) in subsection (m) by inserting '', safe, and continuous'' after ''for a reasonable'';

(5) in subsection (q) by striking ''consistent with the operative safety management system established in accordance with section 303 or in accordance with'' inserting ''that is in accordance with a State's strategic highway safety plan and included on''; and

(6) by adding at the end the following:

''(r) DEFINITION.—In this section, the term 'practical design solution' means a collaborative interdisciplinary approach that results in a transportation project that fits its physical setting, preserves safety, and balances costs with the necessary scope and project delivery needs of the project, as well as with scenic, aesthetic, historic, and environmental resources.''.

(b) ADDITIONAL STANDARDS.—Section 109 of title 23, United States Code (as amended by subsection (a)(6)), is amended by adding at the end the following:

''(s) PAVEMENT MARKINGS.—The Secretary shall not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead, as determined in accordance with Environmental Protection Agency testing methods 3052, 6010B, or 6010C.''.

SEC. 1504. CONSTRUCTION.

Section 114 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) LIMITATION ON CONVICT LABOR.—Convict labor shall not be used in construction of Federal-aid highways or portions of Federal-aid highways unless the labor is performed by convicts who are on parole, supervised release, or probation.''; and

(B) in paragraph (3) by inserting ''in existence during that period'' after ''located on a Federal-aid system''; and

(2) in subsection (c)—

(A) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a Federal-aid highway or portion of a Federal-aid highway in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.''; and

(B) in paragraph (3)(C) by striking ''highway or portion of a highway located on a Federal-aid system'' and inserting ''Federal-aid highway or portion of a Federal-aid highway''.

SEC. 1505. MAINTENANCE.

Section 116 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting ''or other direct recipient'' before ''to maintain''; and

(B) by striking the second sentence;

(2) by striking subsection (b) and inserting the following:

''(b) AGREEMENT.—In any State in which the State transportation department or other direct recipient is without legal authority to maintain a project described in subsection (a), the transportation department or direct recipient shall enter into a formal agreement with the appropriate officials of the county or municipality in which the project is located providing for the maintenance of the project.''; and

(3) in the first sentence of subsection (c) by inserting ''or other direct recipient'' after ''State transportation department''.

SEC. 1506. FEDERAL SHARE PAYABLE.

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

(1) in the first sentence of subsection (c)(1)—

(A) by inserting ''maintaining minimum levels of retroreflectivity of highway signs or pavement markings,'' after ''traffic control signalization,'';

(B) by inserting ''shoulder and centerline rumble strips and stripes,'' after ''pavement marking,''; and

(C) by striking ''Federal-aid systems'' and inserting ''Federal-aid programs'';

(2) by striking subsection (e) and inserting the following:

''(e) EMERGENCY RELIEF.—The Federal share payable for any repair or reconstruction provided for by funds made available under section 125 for any project on a Federal-aid highway, including the Interstate System, shall not exceed the Federal share payable on a project on the system as provided in subsections (a) and (b), except that—

''(1) the Federal share payable for eligible emergency repairs to minimize damage, protect facilities, or restore essential traffic accomplished within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the cost of the repairs;

''(2) the Federal share payable for any repair or reconstruction of Federal land transportation facilities, Federal land access transportation facilities, and tribal transportation facilities may amount to 100 percent of the cost of the repair or reconstruction;

''(3) the Secretary shall extend the time period in paragraph (1) taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair; and

''(4) the Federal share payable for eligible permanent repairs to restore damaged facilities to predisaster condition may amount to 100 percent of the cost of the repairs if the eligible expenses incurred by the State due to natural disasters or catastrophic failures in a Federal fiscal year exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disasters or failures occurred.'';

(3) by striking subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively;

(4) in subsection (i)(1)(A) (as redesignated by paragraph (3)) by striking ''and the Appalachian development highway system program under section 14501 of title 40''; and

(5) by striking subsections (j) and (k) (as redesignated by paragraph (3)) and inserting the following:

''(j) USE OF FEDERAL AGENCY FUNDS.—Notwithstanding any other provision of law, any Federal funds other than those made available under this title and title 49, United States Code, may be used to pay the non-Federal share of the cost of any transportation project that is within, adjacent to, or provides access to Federal land, the Federal share of which is funded under this title or chapter 53 of title 49.

''(k) USE OF FEDERAL LAND AND TRIBAL TRANSPORTATION FUNDS.—Notwithstanding any other provision of law, the funds authorized to be appropriated to carry out the tribal transportation program under section 202 and the Federal lands transportation program under section 203 may be used to pay the non-Federal share of the cost of any project that is funded under this title or chapter 53 of title 49 and that provides access to or within Federal or tribal land.''.

SEC. 1507. TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS.

(a) IN GENERAL.—Section 126 of title 23, United States Code, is amended to read as follows:

''§ 126. Transferability of Federal-aid highway funds

''(a) IN GENERAL.—Notwithstanding any other provision of law, subject to subsection (b), a State may transfer from an apportionment under section 104(b) not to exceed 20 percent of the amount apportioned for the fiscal year to any other apportionment of the State under that section.

''(b) APPLICATION TO CERTAIN SET-ASIDES.—Funds that are subject to sections 104(d) and 133(d) shall not be transferred under this section. The maximum amount that a State may transfer under this section of the State's set-aside under section 149(l) for a fiscal year may not exceed 25 percent of (1) the amount of such set-aside, less (2) the amount of the State's set-aside under section 133(d)(2), as in effect on the day before the date of enactment of the MAP-21, for fiscal year 1997.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126 and inserting the following:

''126. Transferability of Federal-aid highway funds.''.

SEC. 1508. SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, is amended by inserting at the end the following:

''(i) SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, a State may issue special permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if—

''(A) the President has declared the emergency to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

''(B) the permits are issued in accordance with State law; and

''(C) the permits are issued exclusively to vehicles and loads that are delivering relief supplies.

''(2) EXPIRATION.—A permit issued under paragraph (1) shall expire not later than 120 days after the date of the declaration of emergency under subparagraph (A) of that paragraph.''.

SEC. 1509. ELECTRIC VEHICLE CHARGING STATIONS.

(a) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137 of title 23, United States Code, is amended—

(1) in subsection (a) by inserting after the second sentence the following: ''The addition of electric vehicle charging stations to new or previously funded parking facilities shall be eligible for funding under this section.''; and

(2) in subsection (f)(1)—

(A) by striking ''104(b)(4)'' and inserting ''104(b)(1)''; and

(B) by inserting ''including the addition of electric vehicle charging stations,'' after ''new facilities,''.

(b) PUBLIC TRANSPORTATION .—Section 142(a)(1) of title 23, United States Code, is amended by inserting ''(which may include

electric vehicle charging stations)'' after ''corridor parking facilities''.

SEC. 1510. HOV FACILITIES.

Section 166 of title 23, United States Code, is amended—

(1) in subsection (b)(5)—

(A) in subparagraph (A) by striking ''Before September 30, 2009, the'' and inserting ''The''; and

(B) in subparagraph (B) by striking ''Before September 30, 2009, the'' and inserting ''The''; and

(2) in subsection (d)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''in a fiscal year shall certify'' and inserting ''shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify''; and

(ii) by striking ''in the fiscal year'';

(B) in subparagraph (A) by inserting ''and submitting to the Secretary annual reports of those impacts'' after ''adjacent highways'';

(C) in subparagraph (C) by striking ''if the presence of the vehicles has degraded the operation of the facility'' and inserting ''whenever the operation of the facility is degraded''; and

(D) by adding at the end the following:

''(D) MAINTENANCE OF OPERATING PERFORMANCE.—A facility that has become degraded shall be brought back into compliance with the minimum average operating speed performance standard by not later than 180 days after the date on which the degradation is identified through changes to operation, including the following:

''(i) Increase the occupancy requirement for HOVs.

''(ii) Increase the toll charged for vehicles allowed under subsection (b) to reduce demand.

''(iii) Charge tolls to any class of vehicle allowed under subsection (b) that is not already subject to a toll.

''(iv) Limit or discontinue allowing vehicles under subsection (b).

''(v) Increase the available capacity of the HOV facility.

''(E) COMPLIANCE.—If the State fails to bring a facility into compliance under subparagraph (D), the Secretary shall subject the State to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.''.

SEC. 1511. CONSTRUCTION EQUIPMENT AND VEHICLES.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

''SEC. 330. CONSTRUCTION EQUIPMENT AND VEHICLES.

''(a) IN GENERAL.—In accordance with the obligation process established pursuant to section 149(j)(4), a State shall expend amounts required to be obligated for this section to install diesel emission control technology on covered equipment, with an engine that does not meet current model year new engine standards for particulate matter for the applicable engine power group issued by the Environmental Protection Agency, on a covered highway construction project within a $PM_{2.5}$ nonattainment or maintenance area. Covered equipment repowered or retrofit with diesel exhaust control technology installed during the 6-year period ending on the date on which the prime contract was awarded for the covered highway construction project and equipment that meets the Environmental Protection Agency Tier 4 emission standards may be exempt from the requirements of this section.

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

''(1) COVERED EQUIPMENT.—The term 'covered equipment' means any nonroad diesel equipment or on-road diesel equipment that is operated on a covered highway construction project for not less than 80 hours over the life of the project.

''(2) COVERED HIGHWAY CONSTRUCTION PROJECT.—

''(A) IN GENERAL.—The term 'covered highway construction project' means a highway construction project carried out under this title or any other Federal law which is funded in whole or in part with Federal funds.

''(B) EXCLUSIONS.—Any project with a total budgeted cost not to exceed $5,000,000 may be excluded from the requirements of this section by an applicable State or metropolitan planning organization.

''(3) DIESEL EMISSION CONTROL TECHNOLOGY.—The term 'diesel emission control technology' means a technology that—

''(A) is—

''(i) a diesel exhaust control technology;

''(ii) a diesel engine upgrade;

''(iii) a diesel engine repower;

''(iv) an idle reduction control technology; or

''(v) any combination of the technologies listed in clauses (i) through (iv);

''(B) reduces particulate matter emission from covered equipment by—

''(i) not less than 85 percent control of any emission of particulate matter; or

''(ii) the maximum achievable reduction of any emission of particulate matter, taking cost and safety into account; and

''(C) is installed on and operated with the covered equipment while the equipment is operated on a covered highway construction project and that remains operational on the covered equipment for the useful life of the control technology or equipment.

''(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity (including a subcontractor of the entity) that has entered into a prime contract or agreement with a State to carry out a covered highway construction project.

''(5) NONROAD DIESEL EQUIPMENT.—

''(A) IN GENERAL.—The term 'nonroad diesel equipment' means a vehicle, including covered equipment, that is—

''(i) powered by a nonroad diesel engine of not less than 50 horsepower; and

''(ii) not intended for highway use.

''(B) INCLUSIONS.—The term 'nonroad diesel equipment' includes a backhoe, bulldozer, compressor, crane, excavator, generator, and similar equipment.

''(C) EXCLUSIONS.—The term 'nonroad diesel equipment' does not include a locomotive or marine vessel.

''(6) ON-ROAD DIESEL EQUIPMENT.—The term 'on-road diesel equipment' means any self-propelled vehicle that—

''(A) operates on diesel fuel;

''(B) is designed to transport persons or property on a street or highway; and

''(C) has a gross vehicle weight rating of at least 14,000 pounds.

''(7) $PM_{2.5}$ NONATTAINMENT OR MAINTENANCE AREA.—The term '$PM_{2.5}$ nonattainment or maintenance area' means a nonattainment or maintenance area designated under section 107(d)(6) of the Clean Air Act (42 U.S.C. 7407(d)(6)).

''(c) CRITERIA ELIGIBLE ACTIVITIES.—For purposes of subsection (b)(3)(A):

''(1) DIESEL EXHAUST CONTROL TECHNOLOGY.—For a diesel exhaust control technology, the technology shall be—

''(A) installed on a diesel engine or vehicle;

''(B) a verified technology (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

''(C) certified by the installer as having been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2), as in effect on the day before the date of enactment of the MAP-21, for achieving a reduction in particulate matter.

''(2) DIESEL ENGINE UPGRADE.—For a diesel engine upgrade, the upgrade shall be performed on an engine that is—

''(A) rebuilt using new or manufactured components that collectively qualify as verified technologies (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

''(B) certified by the installer to have been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2), as in effect on the day before the date of enactment of the MAP-21, for achieving a reduction in particulate matter.

''(3) DIESEL ENGINE REPOWER.—For a diesel engine repower, the repower shall be conducted using a new or remanufactured diesel engine that is—

''(A) installed as a replacement for an engine used in the existing equipment, subject to the condition that the replaced engine is returned to the supplier for remanufacturing to a more stringent set of engine emissions standards or for use as scrap; and

''(B) meeting a more stringent engine particulate matter emission standard for the applicable engine power group established by the Environmental Protection Agency than the engine particulate matter emission standard applicable to the replaced engine.

''(4) IDLE REDUCTION CONTROL TECHNOLOGY.—For an idle reduction control technology, the technology shall be—

''(A) installed on a diesel engine or vehicle;

''(B) a verified technology (as defined in section 791 of the Energy Policy Act of 2005 (42 U.S.C. 16131)), for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); and

''(C) certified by the installer as having been installed in accordance with the specifications included on the list published pursuant to section 149(f)(2), as in effect on the day before the date of enactment of the MAP-21, for achieving a reduction in particulate matter.

''(d) ELIGIBILITY FOR CREDITS.—

''(1) IN GENERAL.—A State may take credit in a State implementation plan for national ambient air quality standards for any emission reductions that result from the implementation of this section.

''(2) CREDITING.—An emission reduction described in paragraph (1) may be credited toward demonstrating conformity of State implementation plans and transportation plans.''.

(b) SAVINGS CLAUSE.—Nothing in this section modifies or otherwise affects any authority or restrictions established under the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the manners in which section 330 of title 23, United States Code (as added by subsection (a)) has been implemented, including the quantity of covered equipment serviced under those sections and the costs associated with servicing the covered equipment.

(2) INFORMATION FROM STATES.—The Secretary shall require States and recipients, as

a condition of receiving amounts under this Act or under the provisions of any amendments made by this Act, to submit to the Secretary any information that the Secretary determines necessary to complete the report under paragraph (1).

(d) TECHNICAL AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by adding at the end the following:

''330. Construction equipment and vehicles.''.

SEC. 1512. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES.

Section 1805(a) of the SAFETEA–LU (23 U.S.C. 144 note; 119 Stat. 1459) is amended by striking ''highway bridge replacement and rehabilitation program under section 144'' and inserting ''national highway performance program under section 119''.

SEC. 1513. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.

Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; Public Law 102–388) is amended—

(1) in the heading of paragraph (1) by striking ''TEMPORARY EXEMPTION'' and inserting ''EXEMPTION'';

(2) in paragraph (1) by striking '', for the period beginning on October 6, 1992, and ending on October 1, 2009,''; and

(3) in paragraph (2)(A) by striking ''For the period beginning on the date of enactment of this subparagraph and ending on September 30, 2009, a'' and inserting ''A''.

SEC. 1514. UNIFORM RELOCATION ASSISTANCE ACT AMENDMENTS.

(a) MOVING AND RELATED EXPENSES.—Section 202 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4622) is amended—

(1) in subsection (a)(4) by striking ''$10,000'' and inserting ''$25,000, as adjusted by regulation, in accordance with section 213(d)''; and

(2) in the second sentence of subsection (c) by striking ''$20,000'' and inserting ''$40,000, as adjusted by regulation, in accordance with section 213(d)''.

(b) REPLACEMENT HOUSING FOR HOMEOWNERS.—The first sentence of section 203(a)(1) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4623(a)(1)) is amended—

(1) by striking ''$22,500'' and inserting ''$31,000, as adjusted by regulation, in accordance with 213(d),''; and

(2) by striking ''one hundred and eighty days prior to'' and inserting ''90 days before''.

(c) REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS.—Section 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4624) is amended—

(1) in the second sentence of subsection (a) by striking ''$5,250'' and inserting ''$7,200, as adjusted by regulation, in accordance with section 213(d)''; and

(2) in the second sentence of subsection (b) by striking '', except'' and all that follows through the end of the subsection and inserting a period.

(d) DUTIES OF LEAD AGENCY.—Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended—

(1) in subsection (b)—

(A) in paragraph (2) by striking ''and'' at the end;

(B) in paragraph (3) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of this Act shall provide to the lead agency an annual summary report the describes the activities conducted by the Federal agency.''; and

(2) by adding at the end the following:

''(d) ADJUSTMENT OF PAYMENTS.—The head of the lead agency may adjust, by regulation, the amounts of relocation payments provided under sections 202(a)(4), 202(c), 203(a), and 204(a) if the head of the lead agency determines that cost of living, inflation, or other factors indicate that the payments should be adjusted to meet the policy objectives of this Act.''.

(e) AGENCY COORDINATION.—Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is amended by inserting after section 213 (42 U.S.C. 4633) the following:

''SEC. 214. AGENCY COORDINATION.

''(a) AGENCY CAPACITY.—Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to manage and oversee the relocation and acquisition program of the Federal agency in accordance with this Act.

''(b) INTERAGENCY AGREEMENTS.—Not later than 1 year after the date of enactment of this section, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that—

''(1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that provides Federal financial assistance, may include personnel of any displacing agency that receives Federal financial assistance;

''(2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with the Act on a program or project basis; and

''(3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

''(c) INTERAGENCY PAYMENTS.—

''(1) IN GENERAL.—For the fiscal year that begins 1 year after the date of enactment of this section, and each fiscal year thereafter, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than $35,000, to support the training, assistance, and coordination activities of the lead agency described in subsection (b).

''(2) INCLUDED COSTS.—The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.''.

(f) COOPERATION WITH FEDERAL AGENCIES.—Section 308 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

''(a) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—The Secretary may perform, by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Federal agencies, cooperating foreign countries, and State cooperating agencies.

''(2) INCLUSIONS.—Services authorized under paragraph (1) may include activities authorized under section 214 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

''(3) REIMBURSEMENT.—Reimbursement for services carried out under this subsection (including depreciation on engineering and road-building equipment) shall be credited to the applicable appropriation.''.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) EXCEPTION.—The amendments made by subsections (a) through (c) shall take effect 2 years after the date of enactment of this Act.

SEC. 1515. USE OF YOUTH SERVICE AND CONSERVATION CORPS.

(a) IN GENERAL.—The Secretary shall encourage the States and regional transportation planning agencies to enter into contracts and cooperative agreements with qualified youth service or conservation corps, as defined in sections 122(a)(2) of Public Law 101–610 (42 U.S.C. 12572(a)(2)) and 106(c)(3) of Public Law 103–82 (42 U.S.C. 12656(c)(3)) to perform—

(1) appropriate projects eligible under sections 162, 206, and 217 of title 23, United States Code;

(2) appropriate transportation enhancement activities, as defined under section 101(a) of such title;

(3) appropriate byway, trail, or bicycle and pedestrian projects under sections 202, 203, and 204 of such title; and

(4) appropriate safe routes to school projects under section 1404 of the SAFETEA–LU (119 Stat. 1228).

(b) REQUIREMENTS.—Under any contract or cooperative agreement entered into with a qualified youth service or conservation corps under this section, the Secretary shall—

(1) set the amount of a living allowance or rate of pay for each participant in such corps at—

(A) such amount or rate as required under State law in a State with such requirements; or

(B) for corps in States not described in subparagraph (A), at such amount or rate as determined by the Secretary, not to exceed the maximum living allowance authorized by section 140 of Public Law 101–610 (42 U.S.C. 12594); and

(2) not subject such corps to the requirements of section 112 of title 23, United States Code.

SEC. 1516. CONSOLIDATION OF PROGRAMS; REPEAL OF OBSOLETE PROVISIONS.

(a) CONSOLIDATION OF PROGRAMS.—From administrative funds made available under section 104(a) of title 23, United States Code, not less than $15,000,000 for each of fiscal years 2012 and 2013 shall be made available for the following activities:

(1) To carry out the operation lifesaver program—

(A) to provide public information and education programs to help prevent and reduce motor vehicle accidents, injuries, and fatalities; and

(B) to improve driver performance at railway-highway crossings.

(2) To operate the national work zone safety information clearinghouse authorized by section 358(b)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 401 note; 109 Stat. 625)

(3) To operate a public road safety clearinghouse in accordance with section 1411(a) of the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1234).

(4) To operate a bicycle and pedestrian safety clearinghouse in accordance with section 1411(b) of the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1234).

(5) To operate a national safe routes to school clearinghouse in accordance with section 1404(g) of the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat. 1229).

(6) To provide work zone safety grants in accordance with subsections (a) and (b) of section 1409 of the SAFETEA–LU (23 U.S.C. 401 note; 119 Stat. 1232).

(7) To provide grants to prohibit racial profiling in accordance with section 1906 of the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat. 1468).

(b) REPEALS.—Sections 105, 110, 117, 124, 147, 151, 155, 160, and 303 of title 23, United States Code, are repealed.

(c) CONFORMING AMENDMENTS.—

(1) TITLE ANALYSIS.—The analysis for title 23, United States Code, is amended by striking the items relating to sections 105, 110, 117, 124, 147, 151, 155, 160, and 303 of that title.

(2) SECTION 118.—Section 118 of such title is amended—

(A) in subsection (b)—

(i) by striking paragraph (1) and all that follows through the heading of paragraph (2); and

(ii) by striking ''(other than for Interstate construction)'';

(B) by striking subsection (c); and

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

(3) SECTION 130.—Section 130 of such title is amended—

(A) by striking subsections (e) through (h);

(B) by redesignating subsection (i) as subsection (e);

(C) by striking subsections (j) and (k);

(D) by redesignating subsection (l) as subsection (f);

(E) in subsection (e) (as so redesignated) by striking ''this section''the second place it appears and inserting ''section 104(b)(3)''; and

(F) in subsection (f) (as so redesignated) by striking paragraphs (3) and (4).

(4) SECTION 142.—Section 142 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by striking ''motor vehicles (other than rail)'' and inserting ''buses'';

(II) by striking ''(hereafter in this section referred to as 'buses')'';

(III) by striking ''Federal-aid systems'' and inserting ''Federal-aid highways''; and

(IV) by striking ''Federal-aid system'' and inserting ''Federal-aid highway''; and

(ii) in paragraph (2)—

(I) by striking ''as a project on the the surface transportation program for''; and

(II) by striking ''section 104(b)(3)'' and inserting ''section 104(b)(2);

(B) in subsection (b) by striking ''104(b)(4)'' and inserting ''104(b)(1)'';

(C) in subsection (c)—

(i) by striking ''system'' in each place it appears and inserting ''highway''; and

(ii) by striking ''highway facilities'' and inserting ''highways eligible under the program that is the source of the funds'';

(D) in subsection (e)(2)—

(i) by striking ''Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects'' and inserting ''Projects authorized by subsection (a)(2)''; and

(ii) striking ''on the surface transportation program'' and inserting ''under the transportation mobility program''; and

(E) in subsection (f) by striking ''exits'' and inserting ''exists''.

(5) SECTION 145.—Section 145(b) of title 23, United States Code, is amended by striking ''section 117 of this title,''.

(6) SECTION 322.—Section 322(h)(3) of title 23, United States Code, is amended by striking ''surface transportation program'' and inserting ''the transportation mobility program''.

(d) CERTAIN ALLOCATIONS.—Notwithstanding any other provision of law, any unobligated balances of amounts required to be allocated to a State by section 1307(d)(1) of the SAFETEA–LU (23 U.S.C. 322 note; 119 Stat. 1217; 122 Stat. 1577) shall instead be made available to such State for any purpose eligible under section 133(c) of title 23, United States Code.

SEC. 1517. RESCISSIONS.

(a) FISCAL YEAR 2012.—

(1) Not later than 30 days after the date of enactment of this Act, of the unobligated balances available under sections 144(f) and 320 of title 23, United States Code, section 147 of Public Law 95–599 (23 U.S.C. 144 note; 92 Stat. 2714), section 9(c) of Public Law 97–134 (95 Stat. 1702), section 149 of Public Law 100–17 (101 Stat. 181), sections 1006, 1069, 1103, 1104, 1105, 1106, 1107, 1108, 6005, 6015, and 6023 of Public Law 102–240 (105 Stat. 1914), section 1602 of Public Law 105–178 (112 Stat. 256), sections 1301, 1302, 1702, and 1934 of Public Law 109–59 (119 Stat. 1144), and of other funds apportioned to each State under chapter 1 of title 23, United States Code, prior to the date of enactment of this Act, $2,391,000,000 are permanently rescinded.

(2) In administering the rescission required under this subsection, the Secretary shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies.

(b) FISCAL YEAR 2013.—

(1) On October 1, 2012, of the unobligated balances of funds apportioned or allocated on or before that date to each State under chapter 1 of title 23, United States Code, $3,054,000,000 are permanently rescinded.

(2) Notwithstanding section 1132 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1763), in administering the rescission required under this subsection, the Secretary shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies.

SEC. 1518. STATE AUTONOMY FOR CULVERT PIPE SELECTION.

Not later than 180 days after the date of enactment of this Act, the Secretary shall modify section 635.411 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that States shall have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.

SEC. 1519. EFFECTIVE AND SIGNIFICANT PERFORMANCE MEASURES.

(a) LIMITED NUMBER OF PERFORMANCE MEASURES.—In implementing provisions of this Act (including the amendments made by this Act) and title 23, United States Code (other than chapter 4 of that title), that authorize the Secretary to develop performance measures, the Secretary shall limit the number of performance measures established to the most significant and effective measures.

(b) DIFFERENT APPROACHES FOR URBAN AND RURAL AREAS.—In the development and implementation of any performance target, a State may, as appropriate, provide for different performance targets for urbanized and rural areas.

SEC. 1520. REQUIREMENTS FOR ELIGIBLE BRIDGE PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE BRIDGE PROJECT.—The term ''eligible bridge project'' means a project for construction, alteration, or repair work on a bridge or overpass funded directly by, or provided other assistance through, the Federal Government.

(2) QUALIFIED TRAINING PROGRAM.—The term ''qualified training program'' means a training program that—

(A)(i) is certified by the Secretary of Labor; and

(ii) with respect to an eligible bridge project located in an area in which the Secretary of Labor determines that a training program does not exist, is registered with—

(I) the Department of Labor; or

(II) a State agency recognized by the Department of Labor for purposes of a Federal training program; or

(B) is a corrosion control, mitigation and prevention personnel training program that is offered by an organization whose standards are recognized and adopted in other Federal or State Departments of Transportation.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Each contractor and subcontractor that carries out any aspect of an eligible bridge project described in paragraph (2) shall—

(A) before entering into the applicable contract, be certified by the Secretary or a State, in accordance with paragraph (4), as meeting the eligibility requirements described in paragraph (3); and

(B) remain certified as described in subparagraph (A) while carrying out the applicable aspect of the eligible bridge project.

(2) DESCRIPTION OF ASPECTS OF ELIGIBLE BRIDGE PROJECTS.—An aspect of an eligible bridge project referred to in paragraph (1) is—

(A) surface preparation or coating application on bridge steel of an eligible bridge project;

(B) removal of a lead-based or other hazardous coating from bridge steel of an existing eligible bridge project;

(C) shop painting of structural steel fabricated for installation on bridge steel of an eligible bridge project; and

(D) the design, application, installation, and maintenance of a cathodic protection system.

(3) REQUIREMENTS.—The eligibility requirements referred to in paragraph (1) are that a contractor or subcontractor shall—

(A) as determined by the Secretary—

(i) use corrosion mitigation and prevention methods to preserve relevant bridges and overpasses, taking into account—

(I) material selection;

(II) coating considerations;

(III) cathodic protection considerations;

(IV) design considerations for corrosion; and

(V) trained applicators;

(ii) use best practices—

(I) to prevent environmental degradation; and

(II) to ensure careful handling of all hazardous materials; and

(iii) demonstrate a history of employing industry-respected inspectors to ensure funds are used in the interest of affected taxpayers; and

(B) demonstrate a history of compliance with applicable requirements of the Occupational Safety and Health Administration, as determined by the Secretary of Labor.

(4) STATE CONSULTATION.—In determining whether to certify a contractor or subcontractor under paragraph (1)(A), a State shall consult with engineers and other experts trained in accordance with subsection (a)(2) specializing in corrosion control, mitigation, and prevention methods.

(c) OPTIONAL TRAINING PROGRAM.—As a condition of entering into a contract for an eligible bridge project, each contractor and subcontractor that performs construction, alteration, or repair work on a bridge or

overpass for the eligible bridge project may provide, or make available, training, through a qualified training program, for each applicable craft or trade classification of employees that the contractor or subcontractor intends to employ to carry out aspects of eligible bridge projects as described in subsection (b)(2).

SEC. 1521. IDLE REDUCTION TECHNOLOGY.

Section 127(a)(12) of title 23, United States Code, is amended—

(1) in subparagraph (B), by striking ''400'' and inserting ''550''; and

(2) in subparagraph (C)(ii), by striking ''400-pound'' and inserting ''550-pound''.

SEC. 1522. REPORT ON HIGHWAY TRUST FUND EXPENDITURES.

(a) INITIAL REPORT.—Not later than 150 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the activities funded from the Highway Trust Fund during each of fiscal years 2009 through 2011, including for purposes other than construction and maintenance of highways and bridges.

(b) UPDATES.—Not later than 5 years after the date on which the report is submitted under subsection (a) and every 5 years thereafter, the Comptroller General of the United States shall submit to Congress a report that updates the information provided in the report under that subsection for the applicable 5-year period.

(c) INCLUSIONS.—A report submitted under subsection (a) or (b) shall include information similar to the information included in the report of the Government Accountability Office numbered ''GAO-09-729R'' and entitled ''Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008''.

SEC. 1523. EVACUATION ROUTES.

Each State shall give adequate consideration to the needs of evacuation routes in the State, including such routes serving or adjacent to facilities operated by the Armed Forces, when allocating funds apportioned to the State under title 23, United States Code, for the construction of Federal-aid highways.

SEC. 1524. DEFENSE ACCESS ROAD PROGRAM ENHANCEMENTS TO ADDRESS TRANSPORTATION INFRASTRUCTURE IN THE VICINITY OF MILITARY INSTALLATIONS.

The second sentence of section 210(a)(2) of title 23, United States Code, is amended by inserting '', in consultation with the Secretary of Transportation,'' before ''shall determine''.

SEC. 1525. EXPRESS LANES DEMONSTRATION PROGRAM.

Section 1604(b) of the SAFETEA–LU (23 U.S.C. 129 note; Public Law 109–59) is amended—

(1) in paragraph (1)(A)—

(A) in clause (ii), by inserting ''and'' after the semicolon;

(B) by striking clause (iii); and

(C) by redesignating clause (iv) as clause (iii); and

(2) in paragraph (2), by striking ''2009'' and inserting ''2013''.

SEC. 1526. TREATMENT OF HISTORIC SIGNS.

The Secretary shall, not later than 180 days after the date of enactment of this Act, initiate a rulemaking to exempt locally identified historic street name signs or replicas of historic signs from complying with all or part of section 2D.43 of the Manual on Uniform Traffic Control Devices.

SEC. 1527. CONSOLIDATION OF GRANTS.

(a) DEFINITIONS.—In this section, the term ''recipient'' means—

(1) a State, local, or tribal government, including—

(A) a territory of the United States;

(B) a transit agency;

(C) a port authority;

(D) a metropolitan planning organization; or

(E) any other political subdivision of a State or local government;

(2) a multistate or multijurisdictional group, if each member of the group is an entity described in paragraph (1); and

(3) a public-private partnership, if both parties are engaged in building the project.

(b) CONSOLIDATION.—

(1) IN GENERAL.—A recipient that receives multiple grant awards from the Department to support 1 multimodal project may request that the Secretary designate 1 modal administration in the Department to be the lead administering authority for the overall project.

(2) NEW STARTS.—Any project that includes funds awarded under section 5309 of title 49, United States Code, shall be exempt from consolidation under this section unless the grant recipient requests the Federal Transit Administration to be the lead administering authority.

(3) REVIEW.—

(A) IN GENERAL.—Not later than 30 days after the date on which a request under paragraph (1) is made, the Secretary shall review the request and approve or deny the designation of a single modal administration as the lead administering authority and point of contact for the Department.

(B) NOTIFICATION.—

(i) IN GENERAL.—The Secretary shall notify the requestor of the decision of the Secretary under subparagraph (A) in such form and at such time as the Secretary and the requestor agree.

(ii) DENIAL.—If a request is denied, the Secretary shall provide the requestor with a detailed explanation of the reasoning of the Secretary with the notification under clause (i).

(c) DUTIES.—

(1) IN GENERAL.—A modal administration designated as a lead administering authority under this section shall—

(A) be responsible for leading and coordinating the integrated project management team, which shall consist of all of the other modal administrations in the Department relating to the multimodal project; and

(B) to the extent feasible during the first 30 days of carrying out the multimodal project, identify overlapping or duplicative regulatory requirements that exist for the project and propose a single, streamlined approach to meeting all of the applicable regulatory requirements through the activities described in subsection (d).

(2) ADMINISTRATION.—

(A) IN GENERAL.—The Secretary shall transfer all amounts that have been awarded for the multimodal project to the modal administration designated as the lead administering authority.

(B) OPTION.—

(i) IN GENERAL.—Participation under this section shall be optional for recipients, and no recipient shall be required to participate.

(ii) SECRETARIAL DUTIES.—The Secretary is not required to identify every recipient that may be eligible to participate under this section.

(d) COOPERATION.—

(1) IN GENERAL.—The Secretary and modal administrations with relevant jurisdiction over a multimodal project should cooperate on project review and delivery activities at the earliest practicable time.

(2) PURPOSES.—The purposes of the cooperation under paragraph (1) are—

(A) to avoid delays and duplication of effort later in the process;

(B) to prevent potential conflicts; and

(C) to ensure that planning and project development decisions are made in a streamlined manner and consistent with applicable law.

(e) APPLICABILITY.—Nothing in this section shall—

(1) supersede, amend, or modify the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental law; or

(2) affect the responsibility of any Federal officer to comply with or enforce any law described in paragraph (1).

TITLE II—RESEARCH AND EDUCATION

Subtitle A—Funding

SEC. 2101. AUTHORIZATION OF APPROPRIATIONS.

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

(1) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—To carry out sections 503(b), 503(d), and 509 of title 23, United States Code, $90,000,000 for each of fiscal years 2012 and 2013.

(2) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—To carry out section 503(c) of title 23, United States Code, $90,000,000 for each of fiscal years 2012 and 2013.

(3) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, $24,000,000 for each of fiscal years 2012 and 2013.

(4) INTELLIGENT TRANSPORTATION SYSTEMS PROGRAM.—To carry out sections 512 through 518 of title 23, United States Code, $100,000,000 for each of fiscal years 2012 and 2013.

(5) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—To carry out section 5505 of title 49, United States Code, $70,000,000 for each of fiscal years 2012 and 2013.

(6) BUREAU OF TRANSPORTATION STATISTICS.—To carry out chapter 65 of title 49, United States Code, $26,000,000 for each of fiscal years 2012 and 2013.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall—

(1) be available for obligation in the same manner as if those funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using those funds shall be 80 percent, unless otherwise expressly provided by this Act (including the amendments by this Act) or otherwise determined by the Secretary; and

(2) remain available until expended and not be transferable.

Subtitle B—Research, Technology, and Education

SEC. 2201. RESEARCH, TECHNOLOGY, AND EDUCATION.

Section 501 of title 23, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (8);

(2) by inserting after paragraph (1) the following:

''(2) INCIDENT.—The term 'incident' means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

''(3) INNOVATION LIFECYCLE.—The term 'innovation lifecycle' means the process of innovating through—

''(A) the identification of a need;

''(B) the establishment of the scope of research to address that need;

''(C) setting an agenda;

''(D) carrying out research, development, deployment, and testing of the resulting technology or innovation; and

''(E) carrying out an evaluation of the impact of the resulting technology or innovation.

''(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

''(5) INTELLIGENT TRANSPORTATION SYSTEM.—The terms 'intelligent transportation system' and 'ITS' mean electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

''(6) NATIONAL ARCHITECTURE.—For purposes of this chapter, the term 'national architecture' means the common framework for interoperability that defines—

''(A) the functions associated with intelligent transportation system user services;

''(B) the physical entities or subsystems within which the functions reside;

''(C) the data interfaces and information flows between physical subsystems; and

''(D) the communications requirements associated with the information flows.

''(7) PROJECT.—The term 'project' means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this chapter.''; and

(3) by inserting after paragraph (8) (as so redesignated) the following:

''(9) STANDARD.—The term 'standard' means a document that—

''(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for the intended purposes of the materials, products, processes, and services; and

''(B) may support the national architecture and promote—

''(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

''(ii) interoperability among intelligent transportation system technologies implemented throughout the States.''.

SEC. 2202. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.

(a) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.—Section 502 of title 23, United States Code, is amended—

(1) in the section heading by inserting ''**, DEVELOPMENT, AND TECHNOLOGY**'' after ''**SURFACE TRANSPORTATION RESEARCH**'';

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

''(1) APPLICABILITY.—The research, development, and technology provisions of this section shall apply throughout this chapter.'';

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) by inserting ''within the innovation lifecycle'' after ''activities''; and

(ii) by inserting ''marketing and communications, impact analysis,'' after ''training,'';

(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (B) by striking ''supports research in which there is a clear public benefit and'' and inserting ''delivers a clear public benefit and occurs where'';

(ii) in subparagraph (C) by striking ''or'' after the semicolon;

(iii) by redesignating subparagraph (D) as subparagraph (H); and

(iv) by inserting after subparagraph (C) the following:

''(D) meets and addresses current or emerging needs;

''(E) presents the best means to align resources with multiyear plans and priorities;

''(F) ensures the coordination of highway research and technology transfer activities, including through activities performed by university transportation centers;

''(G) educates current and future transportation professionals; or'';

(E) in paragraph (4) (as redesignated by subparagraph (A)) by striking subparagraphs (B) through (D) and inserting the following:

''(B) partner with State highway agencies and other stakeholders as appropriate, including international entities, to facilitate research and technology transfer activities;

''(C) communicate the results of ongoing and completed research;

''(D) lead efforts to coordinate national emphasis areas of highway research, technology, and innovation deployment;

''(E) leverage partnerships with industry, academia, and international entities; and

''(F) conduct, facilitate, and support training and education of current and future transportation professionals.'';

(F) in paragraph (5)(C) (as redesignated by subparagraph (A)) by striking ''policy and planning'' and inserting ''all highway objectives seeking to improve the performance of the transportation system'';

(G) in paragraph (6) (as redesignated by subparagraph (A)) in the second sentence, by inserting ''tribal governments,'' after ''local governments,''; and

(H) in paragraph (8) (as redesignated by subparagraph (A))—

(i) in the first sentence, by striking ''To the maximum'' and inserting the following:

''(A) IN GENERAL.—To the maximum'';

(ii) in the second sentence, by striking ''Performance measures'' and inserting the following:

''(B) PERFORMANCE MEASURES.—Performance measures'';

(iii) in the third sentence, by striking ''All evaluations'' and inserting the following:

''(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph''; and

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

''(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under this chapter shall be part of a data-driven, outcome-oriented program plan.'';

(3) in subsection (b)—

(A) in paragraph (4) by striking ''surface transportation research and technology development strategic plan developed under section 508'' and inserting ''the transportation research and development strategic plan of the Secretary'';

(B) in paragraph (5) by striking ''section'' each place it appears and inserting ''chapter'';

(C) in paragraph (6) by adding at the end the following:

''(C) TRANSFER OF AMOUNTS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer amounts apportioned or allocated to that State under this chapter to another State or the Federal Highway Administration to fund research, development, and technology transfer activities of mutual interest on a pooled funds basis.

''(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for amounts transferred under this subsection shall be disbursed in the same manner and for the same amount as provided for the project being transferred.''; and

(D) by adding at the end the following:

''(7) PRIZE COMPETITIONS.—

''(A) IN GENERAL.—The Secretary may carry out prize competitions to award competitive prizes for surface transportation innovations that have the potential for application to the research and technology objectives and activities of the Federal Highway Administration to improve system performance.

''(B) REQUIREMENTS.—

''(i) IN GENERAL.—The Secretary shall use a competitive process for the selection of prize recipients and shall widely advertise and solicit participation in prize competitions under this paragraph.

''(ii) REGISTRATION REQUIRED.—No individual or entity shall participate in a prize competition under this paragraph unless the individual or entity has registered with the Secretary in accordance with the eligibility requirements established by the Secretary under clause (iii).

''(iii) MINIMUM REQUIREMENTS.—The Secretary shall establish eligibility requirements for participation in each prize competition under this paragraph, which, at a minimum, shall—

''(I) limit participation in the prize competition to—

''(aa) individuals who are citizens of the United States;

''(bb) entities organized or existing under the laws of the United States or of a State; and

''(cc) entities organized or existing under the laws of a foreign country, if the controlling interest, as defined by the Secretary, is held by an individual or entity described in item (aa) or (bb);

''(II) require any individual or entity that registers for a prize competition—

''(aa) to assume all risks arising from participation in the competition; and

''(bb) to waive all claims against the Federal Government for any damages arising out of participation in the competition, including all claims, whether through negligence or otherwise, except in the case of willful misconduct, for—

''(AA) injury, death, damage, or loss of property; or

''(BB) loss of revenue or profits, whether direct, indirect, or consequential; and

''(III) require any individual or entity that registers for a prize competition to waive all claims against any non-Federal entity operating or managing the prize competition, such as a private contractor managing competition activities, to the extent that the Secretary believes is necessary to protect the interests of the Federal Government.

''(C) RELATIONSHIP TO OTHER AUTHORITY.—The Secretary may exercise the authority in this section in conjunction with, or in addition to, any other authority of the Secretary to acquire, support, or stimulate innovations with the potential for application to the Federal highway research technology and education program.'';

(4) in subsection (c)—

(A) in paragraph (3)(A)—

(i) by striking ''subsection'' and inserting ''chapter''; and

(ii) by striking ''50'' and inserting ''80''; and

(B) in paragraph (4) by striking ''subsection'' and inserting ''chapter''; and

(5) by striking subsections (d) through (j).

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 502 and inserting the following:

''502. Surface transportation research, development, and technology.''.

SEC. 2203. RESEARCH AND TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.

(a) IN GENERAL.—Section 503 of title 23, United States Code, is amended to read as follows:

"§ 503. Research and technology development and deployment

''(a) IN GENERAL.—The Secretary shall—

''(1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and

''(2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary.

''(b) HIGHWAY RESEARCH AND DEVELOPMENT PROGRAM.—

''(1) OBJECTIVES.—In carrying out the highway research and development program, the Secretary, to address current and emerging highway transportation needs, shall—

''(A) identify research topics;

''(B) coordinate domestic and international research and development activities;

''(C) carry out research, testing, and evaluation activities; and

''(D) provide technology transfer and technical assistance.

''(2) CONTENTS.—Research and development activities carried out under this section may include any of the following activities:

''(A) IMPROVING HIGHWAY SAFETY.—

''(i) IN GENERAL.—The Secretary shall carry out research and development activities from an integrated perspective to establish and implement systematic measures to improve highway safety.

''(ii) OBJECTIVES.—In carrying out this subparagraph the Secretary shall carry out research and development activities—

''(I) to achieve greater long-term safety gains;

''(II) to reduce the number of fatalities and serious injuries on public roads;

''(III) to fill knowledge gaps that limit the effectiveness of research;

''(IV) to support the development and implementation of State strategic highway safety plans;

''(V) to advance improvements in, and use of, performance prediction analysis for decisionmaking; and

''(VI) to expand technology transfer to partners and stakeholders.

''(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) safety assessments and decisionmaking tools;

''(II) data collection and analysis;

''(III) crash reduction projections;

''(IV) low-cost safety countermeasures;

''(V) innovative operational improvements and designs of roadway and roadside features;

''(VI) evaluation of countermeasure costs and benefits;

''(VII) development of tools for projecting impacts of safety countermeasures;

''(VIII) rural road safety measures;

''(IX) safety measures for vulnerable road users, including bicyclists and pedestrians;

''(X) safety policy studies;

''(XI) human factors studies and measures;

''(XII) safety technology deployment;

''(XIII) safety workforce professional capacity building initiatives;

''(XIV) safety program and process improvements; and

''(XV) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

''(B) IMPROVING INFRASTRUCTURE INTEGRITY.—

''(i) IN GENERAL.—The Secretary shall carry out and facilitate highway and bridge infrastructure research and development activities—

''(I) to maintain infrastructure integrity;

''(II) to meet user needs; and

''(III) to link Federal transportation investments to improvements in system performance.

''(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities—

''(I) to reduce the number of fatalities attributable to infrastructure design characteristics and work zones;

''(II) to improve the safety and security of highway infrastructure;

''(III) to increase the reliability of lifecycle performance predictions used in infrastructure design, construction, and management;

''(IV) to improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

''(V) to reduce user delay attributable to infrastructure system performance, maintenance, rehabilitation, and construction;

''(VI) to improve highway condition and performance through increased use of design, materials, construction, and maintenance innovations;

''(VII) to reduce the lifecycle environmental impacts of highway infrastructure through innovations in design, construction, operation, preservation, and maintenance; and

''(VIII) to study vulnerabilities of the transportation system to seismic activities and extreme events and methods to reduce those vulnerabilities.

''(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

''(II) short-term and accelerated studies of infrastructure performance;

''(III) research to develop more durable infrastructure materials and systems;

''(IV) advanced infrastructure design methods;

''(V) accelerated highway and bridge construction;

''(VI) performance-based specifications;

''(VII) construction and materials quality assurance;

''(VIII) comprehensive and integrated infrastructure asset management;

''(IX) infrastructure safety assurance;

''(X) highway infrastructure security;

''(XI) sustainable infrastructure design and construction;

''(XII) infrastructure rehabilitation and preservation techniques, including techniques to rehabilitate and preserve historic infrastructure;

''(XIII) hydraulic, geotechnical, and aerodynamic aspects of infrastructure;

''(XIV) improved highway construction technologies and practices;

''(XV) improved tools, technologies, and models for infrastructure management, including assessment and monitoring of infrastructure condition;

''(XVI) studies to improve flexibility and resiliency of infrastructure systems to withstand climate variability;

''(XVII) studies on the effectiveness of fiber-based additives to improve the durability of surface transportation materials in various geographic regions;

''(XVIII) studies of infrastructure resilience and other adaptation measures;

''(XIX) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to seismic activity and methods to reduce that vulnerability; and

''(XX) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, storm water runoff, and flooding and to treat or remove pollutants by allowing storm water to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions.

''(iv) LIFECYCLE COSTS ANALYSIS STUDY.—

''(I) IN GENERAL.—In this clause, the term 'lifecycle costs analysis' means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project segment.

''(II) STUDY.—The Comptroller General shall conduct a study of the best practices for calculating lifecycle costs for federally funded highway projects. At a minimum, this study shall include a thorough literature review and a survey of current lifecycle cost practices of State departments of transportation.

''(III) CONSULTATION.—In carrying out this study, the Comptroller shall consult with, at a minimum—

''(aa) the American Association of State Highway and Transportation Officials;

''(bb) appropriate experts in the field of lifecycle cost analysis; and

''(cc) appropriate industry experts and research centers.

''(IV) REPORT.—Not later than 1 year after the date of enactment of the MAP-21, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study which shall include, but is not limited to—

''(aa) a summary of the latest research on lifecycle cost analysis; and

''(bb) recommendations on the appropriate—

''(AA) period of analysis;

''(BB) design period;

''(CC) discount rates; and

''(DD) use of actual material life and maintenance cost data.

''(C) STRENGTHENING TRANSPORTATION PLANNING AND ENVIRONMENTAL DECISIONMAKING.—

''(i) IN GENERAL.—The Secretary shall carry out research—

''(I) to improve transportation planning and environmental decisionmaking processes; and

''(II) to minimize the impact of surface transportation on the environment and quality of life.

''(ii) OBJECTIVES.—In carrying out this subparagraph the Secretary shall carry out research and development activities—

''(I) to reduce the impact of highway infrastructure and operations on the natural and human environment;

''(II) to advance improvements in environmental analyses and processes and context sensitive solutions for transportation decisionmaking;

''(III) to improve construction techniques;

''(IV) to accelerate construction to reduce congestion and related emissions;

''(V) to reduce the impact of highway runoff on the environment;

''(VI) to maintain sustainability of biological communities and ecosystems adjacent to highway corridors;

''(VII) to improve understanding and modeling of the factors that contribute to the demand for transportation;

''(VIII) to improve transportation planning decisionmaking and coordination; and

''(IX) to reduce the environmental impacts of freight movement.

''(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) creation of models and tools for evaluating transportation measures and transportation system designs;

''(II) congestion reduction efforts;

''(III) transportation and economic development planning in rural areas and small communities;

''(IV) improvement of State, local, and tribal capabilities relating to surface transportation planning and the environment;

''(V) environmental stewardship and sustainability activities;

''(VI) streamlining of project delivery processes;

''(VII) development of effective strategies and techniques to analyze and minimize impacts to the natural and human environment and provide environmentally beneficial mitigation;

''(VIII) comprehensive multinational planning;

''(IX) multistate transportation corridor planning;

''(X) improvement of transportation choices, including walking, bicycling, and linkages to public transportation;

''(XI) ecosystem sustainability;

''(XII) wildlife and plant population connectivity and interaction across and along highway corridors;

''(XIII) analysis, measurement, and reduction of air pollution from transportation sources;

''(XIV) advancement in the understanding of health impact analyses in transportation planning and project development;

''(XV) transportation planning professional development;

''(XVI) research on improving the cooperation and integration of transportation planning with other regional plans, including land use, energy, water infrastructure, economic development, and housing plans; and

''(XVII) reducing the environmental impacts of freight movement.

''(D) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

''(i) IN GENERAL.—The Secretary shall carry out research under this subparagraph with the goals of—

''(I) addressing congestion problems;

''(II) reducing the costs of congestion;

''(III) improving freight movement;

''(IV) increasing productivity; and

''(V) improving the economic competitiveness of the United States.

''(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities to identify, develop, and assess innovations that have the potential—

''(I) to reduce traffic congestion;

''(II) to improve freight movement; and

''(III) to reduce freight-related congestion throughout the transportation network.

''(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) active traffic and demand management;

''(II) acceleration of the implementation of Intelligent Transportation Systems technology;

''(III) advanced transportation concepts and analysis;

''(IV) arterial management and traffic signal operation;

''(V) congestion pricing;

''(VI) corridor management;

''(VII) emergency operations;

''(VIII) research relating to enabling technologies and applications;

''(IX) freeway management;

''(X) evaluation of enabling technologies;

''(XI) freight industry professional development;

''(XII) impacts of vehicle size and weight on congestion;

''(XIII) freight operations and technology;

''(XIV) operations and freight performance measurement and management;

''(XV) organization and planning for operations;

''(XVI) planned special events management;

''(XVII) real-time transportation information;

''(XVIII) road weather management;

''(XIX) traffic and freight data and analysis tools;

''(XX) traffic control devices;

''(XXI) traffic incident management;

''(XXII) work zone management;

''(XXIII) communication of travel, roadway, and emergency information to persons with disabilities; and

''(XXIV) research on enhanced mode choice and intermodal connectivity.

''(E) ASSESSING POLICY AND SYSTEM FINANCING ALTERNATIVES.—

''(i) IN GENERAL.—The Secretary shall carry out research and technology on emerging issues in the domestic and international transportation community from a policy perspective.

''(ii) OBJECTIVES.—Research and technology activities carried out under this subparagraph shall provide information to policy and decisionmakers on current and emerging transportation issues.

''(iii) RESEARCH ACTIVITIES.—Activities carried out under this subparagraph shall include—

''(I) the planning and integration of a coordinated program related to the possible design, interoperability, and institutional roles of future sustainable transportation revenue mechanisms;

''(II) field trials to research potential alternative revenue mechanisms, and the Secretary may partner with individual States, groups of States, or other entities to implement such trials; and

''(III) other activities to study new methods which preserve a user-fee structure to maintain the long-term solvency of the Highway Trust Fund.

''(iv) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) highway needs and investment analysis;

''(II) a motor fuel tax evasion program;

''(III) advancing innovations in revenue generation, financing, and procurement for project delivery;

''(IV) improving the accuracy of project cost analyses;

''(V) highway performance measurement;

''(VI) travel demand performance measurement;

''(VII) highway finance performance measurement;

''(VIII) international technology exchange initiatives;

''(IX) infrastructure investment needs reports;

''(X) promotion of the technologies, products, and best practices of the United States; and

''(XI) establishment of partnerships among the United States, foreign agencies, and transportation experts.

''(v) FUNDING.—Of the funds authorized to carry out this subsection, no less than 50 percent shall be used to carry out clause (iii).

''(F) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

''(i) IN GENERAL.—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of current highway and bridge needs.

''(ii) COMPARISONS.—Each report under clause (i) shall include all information necessary to relate and compare the conditions and service measures used in the previous biennial reports to conditions and service measures used in the current report.

''(iii) INCLUSIONS.—Each report under clause (i) shall provide recommendations to Congress on changes to the Highway Performance Monitoring System that address—

''(I) improvements to the quality and standardization of data collection on all functional classifications of Federal-aid highways for accurate system length, lane length, and vehicle-mile of travel; and

''(II) changes to the reporting requirements authorized under section 315, to reflect recommendations under this paragraph for collection, storage, analysis, reporting, and display of data for Federal-aid highways and, to the maximum extent practical, all public roads.

''(G) EXPLORING NEXT GENERATION SOLUTIONS AND CAPITALIZING ON THE HIGHWAY RESEARCH CENTER.—

''(i) IN GENERAL.—The Secretary shall carry out research and development activities relating to exploratory advanced research—

''(I) to leverage the targeted capabilities of the Turner-Fairbank Highway Research Center to develop technologies and innovations of national importance; and

''(II) to develop potentially transformational solutions to improve the durability, efficiency, environmental impact, productivity, and safety aspects of highway and intermodal transportation systems.

''(ii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) long-term, high-risk research to improve the materials used in highway infrastructure;

''(II) exploratory research to assess the effects of transportation decisions on human health;

''(III) advanced development of surrogate measures for highway safety;

''(IV) transformational research to affect complex environmental and highway system relationships;

''(V) development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

''(VI) development of advanced data acquisition techniques for system condition and performance monitoring;

''(VII) inclusive research for hour-to-hour operational decisionmaking and simulation forecasting;

''(VIII) understanding current and emerging phenomena to inform next generation transportation policy decisionmaking; and

''(IX) continued improvement and advancement of the Turner-Fairbank Highway Research Center.

''(H) ALIGNING NATIONAL CHALLENGES AND DISSEMINATING INFORMATION.—

''(i) IN GENERAL.—The Secretary shall conduct research and development activities—

''(I) to establish a nationally coordinated highway research agenda that—

''(aa) focuses on topics of national significance;

''(bb) addresses current gaps in research;

''(cc) encourages collaboration;

''(dd) reduces unnecessary duplication of effort; and

''(ee) accelerates innovation delivery; and

''(II) to provide relevant information to researchers and highway and transportation practitioners to improve the performance of the transportation system.

''(ii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

''(I) coordination, development, and implementation of a national highway research agenda;

''(II) collaboration on national emphasis areas of highway research and coordination among international, Federal, State, and university research programs;

''(III) development and delivery of research reports and innovation delivery messages;

''(IV) identification of market-ready technologies and innovations; and

''(V) provision of access to data developed under this subparagraph to the public, including researchers, stakeholders, and customers, through a publicly accessible Internet site.

''(I) HIGH-RISK RURAL ROADS BEST PRACTICES.—

''(i) STUDY.—

''(I) IN GENERAL.—The Secretary shall conduct a study of the best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads.

''(II) METHODOLOGY.—In carrying out the study, the Secretary shall—

''(aa) conduct a thorough literature review;

''(bb) survey current practices of State departments of transportation; and

''(cc) survey current practices of local units of government, as appropriate.

''(III) CONSULTATION.—In carrying out the study, the Secretary shall consult with—

''(aa) State departments of transportation;

''(bb) county engineers and public works professionals;

''(cc) appropriate local officials; and

''(dd) appropriate private sector experts in the field of roadway safety infrastructure.

''(ii) REPORT.—

''(I) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.

''(II) CONTENTS.—The report shall include—

''(aa) a summary of cost-effective roadway safety infrastructure improvements;

''(bb) a summary of the latest research on the financial savings and reduction in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; and

''(cc) recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads.

''(iii) MANUAL.—

''(I) DEVELOPMENT.—Based on the results of the study under clause (ii), the Secretary, in consultation with the individuals and entities described in clause (i)(III), shall develop a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious bodily injury crashes on high-risk rural roads through the use of cost-effective roadway safety infrastructure improvements.

''(II) AVAILABILITY.—The manual shall be made available to State and local governments not later than 180 days after the date of submission of the report under clause (ii).

''(III) CONTENTS.—The manual shall include, at a minimum, a list of cost-effective roadway safety infrastructure improvements and best practices on the installation of cost-effective roadway safety infrastructure improvements on high-risk rural roads.

''(IV) USE OF MANUAL.—Use of the manual shall be voluntary and the manual shall not establish any binding standards or legal duties on State or local governments, or any other person.

''(c) TECHNOLOGY AND INNOVATION DEPLOYMENT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing, operation, structures, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

''(A) significantly accelerating the adoption of innovative technologies by the surface transportation community;

''(B) providing leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction;

''(C) constructing longer-lasting highways through the use of innovative technologies and practices that lead to faster construction of efficient and safe highways and bridges;

''(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; and

''(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

''(2) IMPLEMENTATION.—

''(A) IN GENERAL.—The Secretary shall promote, facilitate, and carry out the program established under paragraph (1) to distribute the products, technologies, tools, methods, or other findings that result from highway research and development activities, including research and development activities carried out under this chapter.

''(B) ACCELERATED INNOVATION DEPLOYMENT.—In carrying out the program established under paragraph (1), the Secretary shall—

''(i) establish and carry out demonstration programs;

''(ii) provide incentives, technical assistance, and training to researchers and developers; and

''(iii) develop improved tools and methods to accelerate the adoption of proven innovative practices and technologies as standard practices.

''(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

''(i) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the Transportation Research Board of the National Academy of Sciences, shall implement the findings and recommendations developed under the future strategic highway research program established under section 510.

''(ii) BASIS FOR FINDINGS.—The activities carried out under this subparagraph shall be based on the report submitted to Congress by the Transportation Research Board of the National Academy of Sciences under section 510(e).

''(iii) PERSONNEL.—The Secretary may use funds made available to carry out this subsection for administrative costs under this subparagraph, which funds shall be used in addition to any other funds made available for that purpose.

''(iv) FEES.—

''(I) IN GENERAL.—The Secretary may impose and collect fees to recover costs associated with special data or analysis requests relating to safety naturalistic driving databases developed under the future of strategic highway research program.

''(II) USE OF FEE AMOUNTS.—

''(aa) IN GENERAL.—Any fees collected under this clause shall be made available to the Secretary to carry out this section and shall remain available for expenditure until expended.

''(bb) SUPPLEMENT, NOT SUPPLANT.—Any fee amounts collected under this clause shall supplement, but not supplant, amounts made available to the Secretary to carry out this title.

''(d) AIR QUALITY AND CONGESTION MITIGATION MEASURE OUTCOMES ASSESSMENT RESEARCH.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a research program to examine the outcomes of actions funded under the congestion mitigation and air quality improvement program since the enactment of the SAFETEA-LU (Public Law 109–59).

''(2) GOALS.—The goals of the program shall include—

''(A) the assessment and documentation, through outcomes research conducted on a representative sample of cases, of—

''(i) the emission reductions achieved by federally supported surface transportation actions intended to reduce emissions or lessen traffic congestion; and

''(ii) the air quality and human health impacts of those actions, including potential unrecognized or indirect consequences, attributable to those actions;

''(B) an expanded base of empirical evidence on the air quality and human health impacts of actions described in paragraph (1); and

''(C) an increase in knowledge of—

''(i) the factors determining the air quality and human health changes associated with transportation emission reduction actions; and

''(ii) other information to more accurately understand the validity of current estimation and modeling routines and ways to improve those routines.

''(3) ADMINISTRATIVE ELEMENTS.—To carry out this subsection, the Secretary shall—

''(A) make a grant for the coordination, selection, management, and reporting of component studies to an independent scientific research organization with the necessary experience in successfully conducting accountability and other studies on mobile source air pollutants and associated health effects;

''(B) ensure that case studies are identified and conducted by teams selected through a competitive solicitation overseen by an independent committee of unbiased experts; and

''(C) ensure that all findings and reports are peer-reviewed and published in a form that presents the findings together with reviewer comments.

''(4) REPORT.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

''(A) not later than 1 year after the date of enactment of the MAP–21, and for the following year, a report providing an initial scoping and plan, and status updates, respectively, for the program under this subsection; and

''(B) not later than 2 years after the date of enactment of the MAP–21, a final report that describes the findings of, and recommendations resulting from, the program under this subsection.

''(5) FUNDING.—Of the amounts made available to carry out this section, the Secretary

shall make available to carry out this subsection not more than $1,000,000 for each fiscal year.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 503 and inserting the following:

''503. Research and technology development and deployment.''.

SEC. 2204. TRAINING AND EDUCATION.

Section 504 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A) by inserting ''and the employees of any other applicable Federal agency'' before the semicolon at the end;

(B) in paragraph (3)(A)(ii)(V) by striking ''expediting'' and inserting ''reducing the amount of time required for'';

(C) by striking paragraph (4);

(D) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively; and

(E) in paragraph (7) (as redesignated by subparagraph (D)) by striking ''paragraph (7)'' and inserting ''paragraph (6)'';

(2) in subsection (b) by striking paragraph (3) and inserting the following:

''(3) FEDERAL SHARE.—

''(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—

''(i) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent.

''(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity described in clause (i) may consist of amounts provided to a recipient under subsection (e) or section 505, up to 100 percent of the non-Federal share.

''(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of an activity carried out by a tribal technical assistance center under paragraph (2)(D)(ii) shall be 100 percent.'';

(3) in subsection (c)(2)—

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

''(A) IN GENERAL.—The Secretary'';

(B) in subparagraph (A) (as designated by subparagraph (A)) by striking ''. The program'' and inserting '', which program''; and

(C) by adding at the end the following:

''(B) USE OF AMOUNTS.—Amounts provided to institutions of higher education to carry out this paragraph shall be used to provide direct support of student expenses.'';

(4) in subsection (e)(1)—

(A) in the matter preceding subparagraph (A) by striking ''sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)'' and inserting ''paragraphs (1) through (4) of section 104(b)'';

(B) in subparagraph (D) by striking ''and'' at the end;

(C) in subparagraph (E) by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

''(F) meetings of transportation professionals that include education and professional development activities;

''(G) activities carried out by the National Highway Institute under subsection (a); and

''(H) local technical assistance programs under subsection (b).'';

(5) in subsection (f) in the heading, by striking ''PILOT'';

(6) in subsection (g)(4)(F) by striking ''excellence'' and inserting ''stewardship''; and

(7) by adding at the end the following:

''(h) CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.—

''(1) IN GENERAL.—The Secretary may make grants under this section to establish and maintain centers for surface transportation excellence.

''(2) GOALS.—The goals of a center referred to in paragraph (1) shall be to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.''.

SEC. 2205. STATE PLANNING AND RESEARCH.

Section 505 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking ''section 104 (other than sections 104(f) and 104(h)) and under section 144'' and inserting ''paragraphs (1) through (5) of section 104(b)''; and

(B) in paragraph (3) by striking ''under section 303'' and inserting '', plans, and processes under sections 119, 148, 149, and 167'';

(2) in subsection (b)—

(A) in paragraph (1) by striking ''25'' and inserting ''24''; and

(B) in paragraph (2) by striking ''75 percent of the funds described in paragraph (1)'' and inserting ''70 percent of the funds described in subsection (a)'';

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

(4) by inserting after subsection (b) the following:

''(c) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

''(1) FUNDS.—Not less than 6 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be made available to the Secretary to carry out section 503(c)(2)(C).

''(2) TREATMENT OF FUNDS.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).''; and

(5) in paragraph (e) (as so redesignated) by striking ''section 118(b)(2)'' and inserting ''section 118(b)''.

SEC. 2206. INTERNATIONAL HIGHWAY TRANSPORTATION PROGRAM.

Section 506 of title 23, United States Code, is repealed.

SEC. 2207. SURFACE TRANSPORTATION ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.

Section 507 of title 23, United States Code, is repealed.

SEC. 2208. NATIONAL COOPERATIVE FREIGHT RESEARCH.

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

''(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs carried out by the National Academy of Sciences to ensure program efficiency, effectiveness, and the dissemination of research findings.''.

SEC. 2209. UNIVERSITY TRANSPORTATION CENTERS PROGRAM.

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

''§ 5505. University transportation centers program

''(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

''(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

''(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—

''(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

''(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

''(C) to address critical workforce needs and educate the next generation of transportation leaders.

''(b) COMPETITIVE SELECTION PROCESS.—

''(1) APPLICATIONS.—To receive a grant under this section, a nonprofit institution of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

''(2) GENERAL SELECTION CRITERIA.—

''(A) IN GENERAL.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23.

''(B) CRITERIA.—The Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

''(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

''(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

''(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

''(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

''(v) the demonstrated commitment of the recipient to carry out transportation workforce development programs through—

''(I) degree-granting programs;

''(II) training seminars for practicing professionals;

''(III) outreach activities to attract new entrants into the transportation field, including women, minorities, and persons from disadvantaged communities; and

''(IV) primary and secondary school transportation workforce outreach;

''(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

''(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;

''(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

''(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

''(c) GRANTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21,

the Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

''(2) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

''(A) IN GENERAL.—For each of fiscal years 2012 and 2013 and subject to subparagraph (B), the Secretary shall provide grants to not more than 15 recipients that the Secretary determines best meet the criteria described in subsection (b)(2).

''(B) RESTRICTIONS.—

''(i) IN GENERAL.—For each fiscal year, a grant made available under this paragraph shall not exceed $3,500,000 per recipient.

''(ii) FOCUSED RESEARCH.—At least 2 of the recipients awarded a grant under this paragraph shall have expertise in, and focus research on, public transportation issues.

''(C) MATCHING REQUIREMENT.—

''(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

''(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

''(I) section 504(b) or 505 of title 23; and

''(II) subject to prior approval by the Secretary, a transportation-related grant from the National Science Foundation.

''(3) TIER 2 UNIVERSITY TRANSPORTATION CENTERS.—

''(A) IN GENERAL.—For each of fiscal years 2012 and 2013, the Secretary shall provide grants of not more than $2,000,000 each to not more than 20 recipients to carry out this section.

''(B) RESTRICTION.—A grant recipient under paragraph (2) shall not be eligible to receive a grant under this paragraph.

''(C) MATCHING REQUIREMENT.—

''(i) IN GENERAL.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

''(ii) SOURCES.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—

''(I) section 504(b) or 505 of title 23; and

''(II) subject to prior approval by the Secretary, a transportation-related grant from the National Science Foundation.

''(D) FOCUSED RESEARCH.—In awarding grants under this paragraph, consideration shall be given to minority institutions, as defined by section 365(3) of the Higher Education Act (20 U.S.C. Sec. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research . The requirements of subsection (c)(3)(C) shall not apply upon demonstration of financial hardship by the applicant institution.

''(d) PROGRAM COORDINATION.—

''(1) IN GENERAL.—The Secretary shall—

''(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and

''(B) disseminate the results of that research through the establishment and operation of an information clearinghouse.

''(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate the programs carried out under this section by grant recipients.

''(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Secretary shall expend not more than 1½ percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section and section 5506.

''(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are appropriated.

''(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

''Sec. 5505. University transportation centers program.''.

SEC. 2210. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

''CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

''§ 6301. Definitions.

''In this chapter, the following definitions apply:

''(1) BUREAU.—The term 'Bureau' means the Bureau of Transportation Statistics established by section 6302(a).

''(2) DEPARTMENT.—The term 'Department' means the Department of Transportation.

''(3) DIRECTOR.—The term 'Director' means the Director of the Bureau.

''(4) LIBRARY.—The term 'Library' means the National Transportation Library established by section 6304(a).

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''§ 6302. Bureau of Transportation Statistics.

''(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration the Bureau of Transportation Statistics.

''(b) DIRECTOR.—

''(1) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary.

''(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of training and experience in the collection, analysis, and use of transportation statistics.

''(3) DUTIES.—

''(A) IN GENERAL.—The Director shall—

''(i) serve as the senior advisor to the Secretary on data and statistics; and

''(ii) be responsible for carrying out the duties described in subparagraph (B).

''(B) DUTIES.—The Director shall—

''(i) ensure that the statistics compiled under clause (vi) are designed to support transportation decisionmaking by—

''(I) the Federal Government;

''(II) State and local governments;

''(III) metropolitan planning organizations;

''(IV) transportation-related associations;

''(V) the private sector, including the freight community; and

''(VI) the public;

''(ii) establish on behalf of the Secretary a program—

''(I) to effectively integrate safety data across modes; and

''(II) to address gaps in existing Department safety data programs;

''(iii) work with the operating administrations of the Department—

''(I) to establish and implement the data programs of the Bureau; and

''(II) to improve the coordination of information collection efforts with other Federal agencies;

''(iv) evaluate and update as necessary surveys and data collection methods of the Department on a continual basis to improve the accuracy and utility of transportation statistics;

''(v) encourage the standardization of data, data collection methods, and data management and storage technologies for data collected by—

''(I) the Bureau;

''(II) the operating administrations of the Department;

''(III) State and local governments;

''(IV) metropolitan planning organizations; and

''(V) private sector entities;

''(vi) collect, compile, analyze, and publish a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

''(I) transportation safety across all modes and intermodally;

''(II) the state of good repair of United States transportation infrastructure;

''(III) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6310;

''(IV) economic efficiency across the entire transportation sector;

''(V) the effects of the transportation system on global and domestic economic competitiveness;

''(VI) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

''(VII) transportation-related variables that influence the domestic economy and global competitiveness;

''(VIII) economic costs and impacts for passenger travel and freight movement;

''(IX) intermodal and multimodal passenger movement;

''(X) intermodal and multimodal freight movement; and

''(XI) consequences of transportation for the human and natural environment;

''(vii) build and disseminate the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order), including by coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by other entities;

''(viii) issue guidelines for the collection of information by the Department that the Director determines necessary to develop

transportation statistics and carry out modeling, economic assessment, and program assessment activities to ensure that the information is accurate, reliable, relevant, uniform, and in a form that permits systematic analysis by the Department;

''(ix) review and report to the Secretary on the sources and reliability of—

''(I) the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required under the Government Performance and Results Act of 1993 (Public Law 103–62;107 Stat. 285); and

''(II) at the request of the Secretary, any other data collected or statistical information published by the heads of the operating administrations of the Department; and

''(x) ensure that the statistics published under this section are readily accessible to the public.

''(c) ACCESS TO FEDERAL DATA.—In carrying out subsection (b)(3)(B)(ii), the Director shall be given access to all safety data that the Director determines necessary to carry out that subsection that is held by the Department or any other Federal agency.

''§ 6303. Intermodal transportation database

''(a) IN GENERAL.—In consultation with the Under Secretary Transportation for Policy, the Assistant Secretaries of the Department, and the heads of the operating administrations of the Department, the Director shall establish and maintain a transportation database for all modes of transportation.

''(b) USE.—The database shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

''(c) CONTENTS.—The database shall include—

''(1) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation, intermodal combination, and relevant classification;

''(2) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes), intermodal combination, and relevant classification;

''(3) information on the location and connectivity of transportation facilities and services; and

''(4) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

''§ 6304. National transportation library

''(a) PURPOSE AND ESTABLISHMENT.—To support the information management and decisionmaking needs of transportation officials at the Federal, State, and local levels, there is established in the Bureau of Transportation Statistics a National Transportation Library that shall—

''(1) be headed by an individual who is highly qualified in library and information science;

''(2) acquire, preserve, and manage transportation information and information products and services for use by the Department, other Federal agencies, and the general public;

''(3) provide reference and research assistance;

''(4) serve as a central depository for research results and technical publications of the Department;

''(5) provide a central clearinghouse for transportation data and information of the Federal Government;

''(6) serve as coordinator and policy lead for transportation information access;

''(7) provide transportation information and information products and services to—

''(A) the Department;

''(B) other Federal agencies;

''(C) public and private organizations; and

''(D) individuals, within the United States as well as internationally;

''(8) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, with the goal of developing a comprehensive transportation information and knowledge network that supports the activities described in section 6302(b)(3)(B); and

''(9) engage in such other activities as the Director determines to be necessary and as the resources of the Library permit.

''(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a), with the goal of improving the ability of the transportation community to share information and the ability of the Director to make statistics and other information readily accessible as required under section 6302(b)(3)(B)(x).

''(c) AGREEMENTS.—

''(1) IN GENERAL.—To carry out this section, the Director may enter into agreements with, provide grants to, and receive amounts from, any—

''(A) State or local government;

''(B) organization;

''(C) business; or

''(D) individual.

''(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities relating to the strategic goals of the Department, knowledge networking, and national and international cooperation, by entering into contracts or other agreements or providing grants.

''(3) AMOUNTS.—Any amounts received by the Library as payment for library products and services or other activities shall be made available to the Director to carry out this section and remain available until expended.

''§ 6305. Advisory council on transportation statistics

''(a) IN GENERAL.—The Director shall establish and consult with an advisory council on transportation statistics.

''(b) FUNCTION.—The function of the advisory council established under this subsection is to advise the Director on—

''(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department; and

''(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

''(c) MEMBERSHIP.—The advisory council shall be composed of not fewer than 9 and not more than 11 members appointed by the Director, who shall not be officers or employees of the United States.

''(d) TERMS OF APPOINTMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), members of the advisory council shall be appointed to staggered terms not to exceed 3 years.

''(2) ADDITIONAL TERMS.—A member may be renominated for 1 additional 3-year term.

''(3) PREVIOUS MEMBERS.—A member serving on an advisory council on transportation statistics on the day before the date of enactment of the MAP-21 shall serve until the end of the appointed term of the member.

''(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory council established under this section, except that section 14 of that Act shall not apply.

''§ 6306. Transportation statistical collection, analysis, and dissemination

''To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

''(1) use the services, equipment, records, personnel, information, and facilities of other Federal agencies, or State, local, and private agencies and instrumentalities, subject to the conditions that the applicable agency or instrumentality consents to that use;

''(2) enter into agreements with the agencies and instrumentalities described in paragraph (1) for purposes of data collection and analysis;

''(3) confer and cooperate with foreign governments, international organizations, and State, municipal, and other local agencies;

''(4) request such information, data, and reports from any Federal agency as the Director determines necessary to carry out this chapter;

''(5) encourage replication, coordination, and sharing of information among transportation agencies regarding information systems, information policy, and data; and

''(6) confer and cooperate with Federal statistical agencies as the Director determines necessary to carry out this chapter, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

''§ 6307. Furnishing of information, data, or reports by Federal agencies

''(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency requested to furnish information, data, or reports by the Director under section 6302(b)(3)(B) shall provide the information to the Director.

''(b) PROHIBITION ON CERTAIN DISCLOSURES.—

''(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

''(A) make any disclosure in which the data provided by an individual or organization under section 6302(b)(3)(B) can be identified;

''(B) use the information provided under section 6302(b)(3)(B) for a nonstatistical purpose; or

''(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6302(b)(3)(B).

''(2) COPIES OF REPORTS.—

''(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this chapter) may require, for any reason, a copy of any report that has been filed under section 6302(b)(3)(B) with the Bureau or retained by an individual respondent.

''(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of the employees, contractors, or agents of the Bureau—

''(i) shall be immune from legal process; and

''(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

''(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

''(3) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly

distinguish the collection of the data or information, by rule and on the collection instrument, in a manner that informs the respondent who is requested or required to supply the data or information of the nonstatistical purpose.

''(c) TRANSPORTATION AND TRANSPORTATION-RELATED DATA ACCESS.—Except as expressly prohibited by law, the Director shall have access to any transportation and transportation-related information in the possession of any Federal agency.

''§ 6308. Proceeds of data product sales

''Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products for necessary expenses incurred may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for those expenses.

''§ 6309. Information collection

''As the head of an independent Federal statistical agency, the Director may consult directly with the Office of Management and Budget concerning any survey, questionnaire, or interview that the Director considers necessary to carry out the statistical responsibilities of this chapter.

''§ 6310. National transportation atlas database

''(a) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

''(1) transportation networks;

''(2) flows of people, goods, vehicles, and craft over the transportation networks; and

''(3) social, economic, and environmental conditions that affect or are affected by the transportation networks.

''(b) INTERMODAL NETWORK ANALYSIS.—The databases referred to in subsection (a) shall be capable of supporting intermodal network analysis.

''§ 6311. Limitations on statutory construction

''Nothing in this chapter—

''(1) authorizes the Bureau to require any other Federal agency to collect data; or

''(2) alters or diminishes the authority of any other officer of the Department to collect and disseminate data independently.

''§ 6312. Research and development grants

''The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

''(1) investigation of the subjects described in section 6302(b)(3)(B)(vi);

''(2) research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

''(3) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

''(4) development of electronic clearinghouses of transportation data and related information, as part of the Library; and

''(5) development and improvement of methods for sharing geographic data, in support of the database under section 6310 and the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order).

''§ 6313. Transportation statistics annual report

''The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

''(1) information on the progress of the Director in carrying out the duties described in section 6302(b)(3)(B);

''(2) documentation of the methods used to obtain and ensure the quality of the statistics presented in the report; and

''(3) any recommendations of the Director for improving transportation statistical information.

''§ 6314. Mandatory response authority for freight data collection.

''(a) FREIGHT DATA COLLECTION.—

''(1) IN GENERAL.—An owner, official, agent, person in charge, or assistant to the person in charge of a freight corporation, company, business, institution, establishment, or organization described in paragraph (2) shall be fined in accordance with subsection (b) if that individual neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau to submit data under section 6302(b)(3)(B)—

''(A) to answer completely and correctly to the best knowledge of that individual all questions relating to the corporation, company, business, institution, establishment, or other organization; or

''(B) to make available records or statistics in the official custody of the individual.

''(2) DESCRIPTION OF ENTITIES.—A freight corporation, company, business, institution, establishment, or organization referred to in paragraph (1) is a corporation, company, business, institution, establishment, or organization that—

''(A) receives Federal funds relating to the freight program; and

''(B) has consented to be subject to a fine under this subsection on—

''(i) refusal to supply any data requested; or

''(ii) failure to respond to a written request.

''(b) FINES.—

''(1) IN GENERAL.—Subject to paragraph (2), an individual described in subsection (a) shall be fined not more than $500.

''(2) WILLFUL ACTIONS.—If an individual willfully gives a false answer to a question described in subsection (a)(1), the individual shall be fined not more than $10,000.''.

(b) RULES OF CONSTRUCTION.—If the provisions of section 111 of title 49, United States Code, are transferred to chapter 63 of that title, the following rules of construction apply:

(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a chapter 63 provision is deemed to have been enacted on the date of enactment of the corresponding section 111 provision.

(2) A reference to a section 111 provision, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding chapter 63 provision.

(3) A regulation, order, or other administrative action in effect under a section 111 provision continues in effect under the corresponding chapter 63 provision.

(4) An action taken or an offense committed under a section 111 provision is deemed to have been taken or committed under the corresponding chapter 63 provision.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 111 of title 49, United States Code, is repealed, and the item relating to section 111 in the analysis of chapter 1 of that title is deleted.

(2) ANALYSIS OF SUBTITLE III.—The analysis for subtitle III of title 49, United States Code, is amended by inserting after the items for chapter 61 the following:

''Chapter 63. Bureau of Transportation Statistics ..... ''.

SEC. 2211. ADMINISTRATIVE AUTHORITY.

Section 112 of title 49, United States Code, is amended by adding at the end the following:

''(f) PROMOTIONAL AUTHORITY.—Amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration may be used to purchase promotional items of nominal value for use by the Administrator of the Research and Innovative Technology Administration in the recruitment of individuals and promotion of the programs of the Administration.

''(g) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Administrator may expend not more than 1½ percent of the amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration to carry out the coordination, evaluation, and oversight of the programs administered by the Administration.

''(h) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

''(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

''(B) Federal laboratories; and

''(C) other Federal agencies.

''(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

''(3) FEDERAL SHARE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

''(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

''(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

''(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

''(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract, grant, or other agreement entered into under this section.''.

SEC. 2212. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.

Section 508(a)(2) of title 23, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

''(i) promoting safety;

''(ii) reducing congestion and improving mobility;

''(iii) protecting and enhancing the environment;

''(iv) preserving the existing transportation system;

''(v) improving the durability and extending the life of transportation infrastructure; and

''(vi) improving goods movement;''.

SEC. 2213. NATIONAL ELECTRONIC VEHICLE CORRIDORS AND RECHARGING INFRASTRUCTURE NETWORK.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a stakeholder-driven process to develop a plan and map of a potential national network of electric vehicle corridors and recharging infrastructure.

(b) REQUIREMENTS.—The plan under subsection (a) shall—

(1) project the near- and long-term need for and location of electric vehicle refueling infrastructure at strategic locations across all major national highways, roads, and corridors;

(2) identify infrastructure and standardization needs for electricity providers, infrastructure providers, vehicle manufacturers, and electricity purchasers; and

(3) establish an aspirational goal of achieving strategic deployment of electric vehicle infrastructure by 2020.

(c) STAKEHOLDERS.—In developing the plan under subsection (a), the Secretary shall involve, on a voluntary basis, stakeholders that include—

(1) the heads of other Federal agencies;

(2) State and local officials;

(3) representatives of—

(A) energy utilities;

(B) the vehicles industry;

(C) the freight and shipping industry;

(D) clean technology firms;

(E) the hospitality industry;

(F) the restaurant industry; and

(G) highway rest stop vendors; and

(4) such other stakeholders as the Secretary determines to be necessary.

Subtitle C—Intelligent Transportation Systems Research

SEC. 2301. USE OF FUNDS FOR ITS ACTIVITIES.

Section 513 of title 23, United States Code, is amended to read as follows:

''§ 513. Use of funds for ITS activities.

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

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State or local government, tribal government, transit agency, public toll authority, metropolitan planning organization, other political subdivision of a State or local government, or a multistate or multijurisdictional group applying through a single lead applicant.

''(2) MULTIJURISDICTIONAL GROUP.—The term 'multijurisdictional group' means a combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State that—

''(A) have signed a written agreement to implement an activity that meets the grant criteria under this section; and

''(B) is comprised of at least 2 members, each of whom is an eligible entity.

''(b) PURPOSE.—The purpose of this section is to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs.

''(c) ITS DEPLOYMENT INCENTIVES.—

''(1) IN GENERAL.—The Secretary may—

''(A) develop and implement incentives to accelerate deployment of ITS technologies and services within all funding programs authorized by the MAP-21; and

''(B) for each fiscal year, use amounts made available to the Secretary to carry out intelligent transportation systems outreach, including through the use of websites, public relations, displays, tours, and brochures.

''(2) COMPREHENSIVE PLAN.—To carry out this section, the Secretary shall develop a detailed and comprehensive plan that addresses the manner in which incentives may be adopted through the existing deployment activities carried out by surface transportation modal administrations.

''(d) SYSTEM OPERATIONS AND ITS DEPLOYMENT GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant program to accelerate the deployment, operation, systems management, intermodal integration, and interoperability of the ITS program and ITS-enabled operational strategies—

''(A) to measure and improve the performance of the surface transportation system;

''(B) to reduce traffic congestion and the economic and environmental impacts of traffic congestion;

''(C) to minimize fatalities and injuries;

''(D) to enhance mobility of people and goods;

''(E) to improve traveler information and services; and

''(F) to optimize existing roadway capacity.

''(2) APPLICATION.—To be considered for a grant under this subsection, an eligible entity shall submit an application to the Secretary that includes—

''(A) a plan to deploy and provide for the long-term operation and maintenance of intelligent transportation systems to improve safety, efficiency, system performance, and return on investment, such as—

''(i) real-time integrated traffic, transit, and multimodal transportation information;

''(ii) advanced traffic, freight, parking, and incident management systems;

''(iii) advanced technologies to improve transit and commercial vehicle operations;

''(iv) synchronized, adaptive, and transit preferential traffic signals;

''(v) advanced infrastructure condition assessment technologies; and

''(vi) other technologies to improve system operations, including ITS applications necessary for multimodal systems integration and for achieving performance goals;

''(B) quantifiable system performance improvements, including—

''(i) reductions in traffic-related crashes, congestion, and costs;

''(ii) optimization of system efficiency; and

''(iii) improvement of access to transportation services;

''(C) quantifiable safety, mobility, and environmental benefit projections, including data driven estimates of the manner in which the project will improve the transportation system efficiency and reduce traffic congestion in the region;

''(D) a plan for partnering with the private sector, including telecommunications industries and public service utilities, public agencies (including multimodal and multijurisdictional entities), research institutions, organizations representing transportation and technology leaders, and other transportation stakeholders;

''(E) a plan to leverage and optimize existing local and regional ITS investments; and

''(F) a plan to ensure interoperability of deployed technologies with other tolling, traffic management, and intelligent transportation systems.

''(3) SELECTION.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary may provide grants to eligible entities under this section.

''(B) GEOGRAPHIC DIVERSITY.—In awarding a grant under this section, the Secretary shall ensure, to the maximum extent practicable, that grant recipients represent diverse geographical areas of the United States, including urban, suburban, and rural areas.

''(C) NON-FEDERAL SHARE.—In awarding a grant under the section, the Secretary shall give priority to grant recipients that demonstrate an ability to contribute a significant non-Federal share to the cost of carrying out the project for which the grant is received.

''(4) ELIGIBLE USES.—Projects for which grants awarded under this section may be used include—

''(A) the establishment and implementation of ITS and ITS-enabled operations strategies that improve performance in the areas of—

''(i) traffic operations;

''(ii) emergency response to surface transportation incidents;

''(iii) incident management;

''(iv) transit and commercial vehicle operations improvements;

''(v) weather event response management by State and local authorities;

''(vi) surface transportation network and facility management;

''(vii) construction and work zone management;

''(viii) traffic flow information;

''(ix) freight management; and

''(x) congestion management;

''(B) carrying out activities that support the creation of networks that link metropolitan and rural surface transportation systems into an integrated data network, capable of collecting, sharing, and archiving transportation system traffic condition and performance information;

''(C) the implementation of intelligent transportation systems and technologies that improve highway safety through information and communications systems linking vehicles, infrastructure, mobile devices, transportation users, and emergency responders;

''(D) the provision of services necessary to ensure the efficient operation and management of ITS infrastructure, including costs associated with communications, utilities, rent, hardware, software, labor, administrative costs, training, and technical services;

''(E) the provision of support for the establishment and maintenance of institutional relationships between transportation agencies, police, emergency medical services, private emergency operators, freight operators, shippers, public service utilities, and telecommunications providers;

''(F) carrying out multimodal and crossjurisdictional planning and deployment of regional transportation systems operations and management approaches; and

''(G) performing project evaluations to determine the costs, benefits, lessons learned, and future deployment strategies associated with the deployment of intelligent transportation systems.

''(5) REPORT TO SECRETARY.—For each fiscal year that an eligible entity receives a grant under this section, not later than 1 year after receiving that grant, each recipient shall submit a report to the Secretary that describes how the project has met the expectations projected in the deployment

plan submitted with the application, including—

''(A) data on how the program has helped reduce traffic crashes, congestion, costs, and other benefits of the deployed systems;

''(B) data on the effect of measuring and improving transportation system performance through the deployment of advanced technologies;

''(C) the effectiveness of providing real-time integrated traffic, transit, and multimodal transportation information to the public that allows the public to make informed travel decisions; and

''(D) lessons learned and recommendations for future deployment strategies to optimize transportation efficiency and multimodal system performance.

''(6) REPORT TO CONGRESS.—Not later than 2 years after date on which the first grant is awarded under this section and annually thereafter for each fiscal year for which grants are awarded under this section, the Secretary shall submit to Congress a report that describes the effectiveness of the grant recipients in meeting the projected deployment plan goals, including data on how the grant program has—

''(A) reduced traffic-related fatalities and injuries;

''(B) reduced traffic congestion and improved travel time reliability;

''(C) reduced transportation-related emissions;

''(D) optimized multimodal system performance;

''(E) improved access to transportation alternatives;

''(F) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;

''(G) provided cost savings to transportation agencies, businesses, and the traveling public; and

''(H) provided other benefits to transportation users and the general public.

''(7) ADDITIONAL GRANTS.—If the Secretary determines, based on a report submitted under paragraph (5), that a grant recipient is not complying with the established grant criteria, the Secretary may—

''(A) cease payment to the recipient of any remaining grant amounts; and

''(B) redistribute any remaining amounts to other eligible entities under this section.

''(8) NON-FEDERAL SHARE.—The Federal share of a grant under this section shall not exceed 50 percent of the cost of the project.

''(9) GRANT LIMITATION.—The Secretary may not award more than 10 percent of the amounts provided under this section to a single grant recipient in any fiscal year.

''(10) MULTIYEAR GRANTS.—Subject to availability of amounts, the Secretary may provide an eligible entity with grant amounts for a period of multiple fiscal years.

''(11) FUNDING.—Of the funds authorized to be appropriated to carry out the intelligent transportation system program under sections 512 through 518, not less than 50 percent of such funds shall be used to carry out this subsection.''.

SEC. 2302. GOALS AND PURPOSES.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 513 the following:

''§ 514. Goals and purposes

''(a) GOALS.—The goals of the intelligent transportation system program include—

''(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

''(2) achievement of national transportation safety goals, including enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to collisions, with particular emphasis on decreasing the number and severity of collisions;

''(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

''(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles, and pedestrians (including individuals with disabilities); and

''(5) enhancement of national defense mobility and improvement of the ability of the United States to respond to security-related or other manmade emergencies and natural disasters.

''(b) PURPOSES.—The Secretary shall implement activities under the intelligent transportation system program, at a minimum—

''(1) to expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

''(2) to ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

''(3) to improve regional cooperation and operations planning for effective intelligent transportation system deployment;

''(4) to promote the innovative use of private resources in support of intelligent transportation system development;

''(5) to facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

''(6) to support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

''(7) to develop a workforce capable of developing, operating, and maintaining intelligent transportation systems;

''(8) to provide continuing support for operations and maintenance of intelligent transportation systems; and

''(9) to ensure a systems approach that includes cooperation among vehicles, infrastructure, and users.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 513 the following:

''514. Goals and purposes.''.

SEC. 2303. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 514 (as added by section 2302) the following:

''§ 515. General authorities and requirements

''(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program—

''(1) to research, develop, and operationally test intelligent transportation systems; and

''(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

''(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in those tests and projects.

''(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

''(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal agencies, as appropriate.

''(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

''(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

''(g) INFORMATION CLEARINGHOUSE.—

''(1) IN GENERAL.—The Secretary shall—

''(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this chapter; and

''(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

''(2) AGREEMENT.—

''(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

''(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

''(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

''(h) ADVISORY COMMITTEE.—

''(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this chapter.

''(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

''(A) a representative from a State highway department;

''(B) a representative from a local highway department who is not from a metropolitan planning organization;

''(C) a representative from a State, local, or regional transit agency;

''(D) a representative from a metropolitan planning organization;

''(E) a private sector user of intelligent transportation system technologies;

''(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

''(G) an academic researcher who is a civil engineer;

''(H) an academic researcher who is a social scientist with expertise in transportation issues;

''(I) a representative from a nonprofit group representing the intelligent transportation system industry;

''(J) a representative from a public interest group concerned with safety;

''(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

''(L) members with expertise in planning, safety, telecommunications, utilities, and operations.

''(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

''(A) Provide input into the development of the intelligent transportation system aspects of the strategic plan under section 508.

''(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

''(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

''(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

''(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

''(4) REPORT.—Not later than February 1 of each year after the date of enactment of the MAP-21, the Secretary shall submit to Congress a report that includes—

''(A) all recommendations made by the Advisory Committee during the preceding calendar year;

''(B) an explanation of the manner in which the Secretary has implemented those recommendations; and

''(C) for recommendations not implemented, the reasons for rejecting the recommendations.

''(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(i) REPORTING.—

''(1) GUIDELINES AND REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this chapter.

''(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this chapter.

''(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

''(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this chapter shall not be subject to chapter 35 of title 44, United States Code.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 514 (as added by section 2302) the following:

''515. General authorities and requirements.''.

SEC. 2304. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 515 (as added by section 2303) the following:

''§ 516. Research and development

''(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research and development, and operational tests of intelligent vehicles, intelligent infrastructure systems, and other similar activities that are necessary to carry out this chapter.

''(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

''(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

''(2) use interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

''(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

''(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

''(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

''(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; or

''(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

''(c) FEDERAL SHARE.—The Federal share payable on account of any project or activity carried out under subsection (a) shall not exceed 80 percent.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 515 (as added by section 2304) the following:

''516. Research and development.''.

SEC. 2305. NATIONAL ARCHITECTURE AND STANDARDS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 516 (as added by section 2304) the following:

''§ 517. National architecture and standards.

''(a) IN GENERAL.—

''(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783; 115 Stat. 1241), the Secretary shall develop and maintain a national ITS architecture and supporting ITS standards and protocols to promote the use of systems engineering methods in the widespread deployment and evaluation of intelligent transportation systems as a component of the surface transportation systems of the United States.

''(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture and supporting ITS standards and protocols shall promote interoperability among, and efficiency of, intelligent transportation systems and technologies implemented throughout the United States.

''(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall support the development and maintenance of standards and protocols using the services of such standards development organizations as the Secretary determines to be necessary and whose memberships are comprised of, and represent, the surface transportation and intelligent transportation systems industries.

''(b) STANDARDS FOR NATIONAL POLICY IMPLEMENTATION.—If the Secretary finds that a standard is necessary for implementation of a nationwide policy relating to user fee collection or other capability requiring nationwide uniformity, the Secretary, after consultation with stakeholders, may establish and require the use of that standard.

''(c) PROVISIONAL STANDARDS.—

''(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives described in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the maximum extent practicable, the work product of appropriate standards development organizations.

''(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

''(d) CONFORMITY WITH NATIONAL ARCHITECTURE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall ensure that intelligent transportation system projects carried out using amounts made available from the Highway Trust Fund, including amounts made available to deploy intelligent transportation systems, conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under subsection (a) or (c).

''(2) DISCRETION OF THE SECRETARY.—The Secretary, at the discretion of the Secretary, may offer an exemption from paragraph (1) for projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 516 (as added by section 2304) the following:

''517. National architecture and standards.''.

SEC. 2306. VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 2305) the following:

''§ 518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment

''(a) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to the appropriate committees of Congress a report that—

''(1) defines a recommended implementation path for dedicated short-range communications technology and applications;

''(2) includes guidance on the relationship of the proposed deployment of dedicated short-range communications to the National ITS Architecture and ITS Standards; and

''(3) ensures competition by not preferencing the use of any particular frequency for vehicle to infrastructure operations.

''(b) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall enter into an agreement with the National Research Council for the review by the National Research Council of the report described in subsection (a).''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 2305) the following:

''518. Vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.''.

TITLE III—AMERICA FAST FORWARD FINANCING INNOVATION

SEC. 3001. SHORT TITLE.

This title may be cited as the ''America Fast Forward Financing Innovation Act of 2011''.

SEC. 3002. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

Sections 601 through 609 of title 23, United States Code, are amended to read as follows:

''§ 601. Generally applicable provisions

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

''(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

''(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

''(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land relating to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

''(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

''(2) FEDERAL CREDIT INSTRUMENT.—The term 'Federal credit instrument' means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

''(3) INVESTMENT-GRADE RATING.—The term 'investment-grade rating' means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

''(4) LENDER.—The term 'lender' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

''(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

''(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

''(5) LETTER OF INTEREST.—The term 'letter of interest' means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the TIFIA program, which—

''(A) describes the project and the location, purpose, and cost of the project;

''(B) outlines the proposed financial plan, including the requested credit assistance and the proposed obligor;

''(C) provides a status of environmental review; and

''(D) provides information regarding satisfaction of other eligibility requirements of the TIFIA program.

''(6) LINE OF CREDIT.—The term '' 'line of credit' '' means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

''(7) LIMITED BUYDOWN.—The term 'limited buydown' means, subject to the conditions described in section 603(b)(4)(C), a buydown of the interest rate by the Secretary and by the obligor if the interest rate has increased between—

''(A)(i) the date on which a project application acceptable to the Secretary is submitted; or

''(ii) the date on which the Secretary entered into a master credit agreement; and

''(B) the date on which the Secretary executes the Federal credit instrument.

''(8) LOAN GUARANTEE.—The term 'loan guarantee' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

''(9) MASTER CREDIT AGREEMENT.—The term 'master credit agreement' means an agreement to extend credit assistance for a program of projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency), or for a single project covered under section 602(b)(2) that would—

''(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to the availability of future funds being made available to carry out this chapter;

''(B) establish the maximum amounts and general terms and conditions of the secured loans or other Federal credit instruments;

''(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the repayment of the secured loans or secured Federal credit instruments;

''(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

''(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(ii) compliance with such other requirements as are specified in section 602(c); and

''(iii) the availibility of funds to carry out this chapter; and

''(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 3 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.

''(10) OBLIGOR.—The term 'obligor' means a party that—

''(A) is primarily liable for payment of the principal of or interest on a Federal credit instrument; and

''(B) may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

''(11) PROJECT.—The term 'project' means—

''(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

''(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

''(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

''(D) a project that—

''(i) is a project—

''(I) for a public freight rail facility or a private facility providing public benefit for highway users by way of direct freight interchange between highway and rail carriers;

''(II) for an intermodal freight transfer facility;

''(III) for a means of access to a facility described in subclause (I) or (II);

''(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

''(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

''(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements;

''(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port; and

''(iv) is composed of related highway, surface transportation, transit, rail, or intermodal capital improvement projects eligible for assistance under this subsection in order to meet the eligible project cost threshold under section 602, by grouping related projects together for that purpose, on the condition that the credit assistance for the projects is secured by a common pledge.

''(12) PROJECT OBLIGATION.—The term 'project obligation' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

''(13) RATING AGENCY.—The term 'rating agency' means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization (as that term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))).

''(14) RURAL INFRASTRUCTURE PROJECT.—The term 'rural infrastructure project' means a surface transportation infrastructure project either—

''(A) located in any area other than an urbanized area that has a population of greater than 250,000 inhabitants; or

''(B) connects a rural area to a city with a population of less than 250,000 inhabitants within the city limits.

''(15) SECURED LOAN.—The term 'secured loan' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

''(16) STATE.—The term 'State' has the meaning given the term in section 101.

''(17) SUBSIDY AMOUNT.—The term 'subsidy amount' means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

''(18) SUBSTANTIAL COMPLETION.—The term 'substantial completion' means—

''(A) the opening of a project to vehicular or passenger traffic; or

''(B) a comparable event, as determined by the Secretary and specified in the credit agreement.

''(19) TIFIA PROGRAM.—The term 'TIFIA program' means the transportation infrastructure finance and innovation program of the Department.

''(20) CONTINGENT COMMITMENT.—The term 'contingent commitment' means a commitment to obligate an amount from future available budget authority that is—

''(A) contingent upon those funds being made available in law at a future date; and

''(B) not an obligation of the Federal Government.

''(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.

''§ 602. Determination of eligibility and project selection

''(a) ELIGIBILITY.—A project shall be eligible to receive credit assistance under this chapter if the entity proposing to carry out the project submits a letter of interest prior to submission of a formal application for the project, and the project meets the following criteria:

''(1) CREDITWORTHINESS.—

''(A) IN GENERAL.—The project shall satisfy applicable creditworthiness standards, which, at a minimum, includes—

''(i) a rate covenant, if applicable;

''(ii) adequate coverage requirements to ensure repayment;

''(iii) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

''(iv) a rating from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect toclause (iii), if the senior debt and Federal credit instrument is for an amount less than $75,000,000 or for a rural infrastructure project or intelligent transportation systems project, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

''(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies, unless the credit instrument is for a rural infrastructure project or intelligent transportation systems project, in which case 1 rating agency opinion shall be sufficient.

''(2) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

''(3) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application acceptable to the Secretary.

''(4) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

''(i)(I) $50,000,000; or

''(II) in the case of a rural infrastructure project, $25,000,000; or

''(ii) 33⅓ percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

''(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $15,000,000.

''(5) DEDICATED REVENUE SOURCES.—The Federal credit instrument shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the project obligations.

''(6) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraph (2).

''(b) SELECTION AMONG ELIGIBLE PROJECTS.—

''(1) ESTABLISHMENT.—The Secretary shall establish a rolling application process in which projects that are eligible to receive credit assistance under subsection (a) shall receive credit assistance on terms acceptable to the Secretary, if adequate funds are available to cover the subsidy costs associated with the Federal credit instrument.

''(2) ADEQUATE FUNDING NOT AVAILABLE.—

''If the Secretary fully obligates funding to eligible projects in a given fiscal year, and adequate funding is not available to fund a credit instrument, a project sponsor of an eligible project may elect to enter into a master credit agreement and wait until the following fiscal year or until additional funds are available to receive credit assistance.

''(3) PRELIMINARY RATING OPINION LETTER.—The Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency—

''(A) indicating that the senior obligations of the project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating; and

''(B) including a preliminary rating opinion on the Federal credit instrument.

''(c) FEDERAL REQUIREMENTS.—

''(1) IN GENERAL.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for transit projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

''(A) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

''(B) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(C) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

''(2) NEPA.—No funding shall be obligated for a project that has not received an environmental Categorical Exclusion, Finding of No Significant Impact, or Record of Decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''§ 603. Secured loans

''(a) IN GENERAL.—

''(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

''(A) to finance eligible project costs of any project selected under section 602;

''(B) to refinance interim construction financing of eligible project costs of any project selected under section 602;

''(C) to refinance existing loan agreements for rural infrastructure projects; or

''(D) to refinance long-term project obligations or Federal credit instruments if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

''(i) is selected under section 602; or

''(ii) otherwise meets the requirements of section 602.

''(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

''(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account each rating letter provided by an agency under section 602(b)(3)(B).

''(b) TERMS AND LIMITATIONS.—

''(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

''(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of 49 percent of the reasonably anticipated eligible project costs or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations.

''(3) PAYMENT.—The secured loan—

''(A) shall—

''(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

''(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

''(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

''(4) INTEREST RATE.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the interest rate on the secured loan shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

''(B) RURAL INFRASTRUCTURE PROJECTS.—A loan offered to a rural infrastructure project under this chapter shall be at ½ of the Treasury Rate.

''(C) LIMITED BUYDOWNS.—A limited buydown is subject to the following conditions:

''(i) The interest rate under the agreement may not be lowered by more than the lower of—

''(I) 1½ percentage points (150 basis points); or

''(II) the amount of the increase in the interest rate.

''(ii) The Secretary may pay up to 50 percent of the cost of the limited buydown, and the obligor shall pay the balance of the cost of the limited buydown.

''(iii) Not more than 5 percent of the funding made available annually to carry out this chapter may be used to carry out limited buydowns.

''(5) MATURITY DATE.—The final maturity date of the secured loan shall be the lesser of—

''(A) 35 years after the date of substantial completion of the project; or

''(B) if the useful life of the capital asset being financed is of a lesser period, the useful life of the asset.

''(6) NONSUBORDINATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

''(B) PRE-EXISTING INDENTURE.—

''(i) IN GENERAL.—The Secretary shall waive subparagraph (A) for public agency borrowers that are financing ongoing capital programs and have outstanding senior bonds under a pre-existing indenture, if—

''(I) the secured loan is rated in the A-category or higher;

''(II) the secured loan is secured and payable from pledged revenues not affected by project performance, such as a tax-backed

revenue pledge or a system-backed pledge of project revenues; and

''(III) the TIFIA program share of eligible project costs is 33 percent or less.

''(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

''(I) the maximum credit subsidy that will be paid by the Federal Government shall be limited to 10 percent of the principal amount of the secured loan; and

''(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

''(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

''(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this chapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

''(9) MAXIMUM FEDERAL INVOLVEMENT.—The total Federal assistance provided on a project receiving a loan under this chapter shall not exceed 80 percent of the total project cost.

''(c) REPAYMENT.—

''(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources, and the useful life of the project.

''(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

''(3) DEFERRED PAYMENTS.—

''(A) AUTHORIZATION.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

''(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

''(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

''(ii) be scheduled to be amortized over the remaining term of the loan.

''(C) CRITERIA.—

''(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

''(ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

''(4) PREPAYMENT.—

''(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

''(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

''(d) SALE OF SECURED LOANS.—

''(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

''(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

''(e) LOAN GUARANTEES.—

''(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

''(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

''§ 604. Lines of credit

''(a) IN GENERAL.—

''(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 602.

''(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

''(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(3), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account the rating opinion letter.

''(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this section shall be contingent on the senior obligations of the project receiving an investment-grade rating from 2 rating agencies.

''(b) TERMS AND LIMITATIONS.—

''(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

''(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

''(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest but not including reasonably required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

''(4) INTEREST RATE.—Except as otherwise provided in subparagraphs (B) and (C) of section 603(b)(4), the interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treasury securities as of the date of execution of the line of credit agreement.

''(5) SECURITY.—The line of credit—

''(A) shall—

''(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

''(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

''(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

''(6) PERIOD OF AVAILABILITY.—The full amount of the line of credit, to the extent not drawn upon, shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

''(7) RIGHTS OF THIRD-PARTY CREDITORS.—

''(A) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

''(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the behalf of the lenders.

''(8) NONSUBORDINATION.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

''(B) PRE-EXISTING INDENTURE.—

''(i) IN GENERAL.—The Secretary shall waive subparagraph (A) for public agency borrowers that are financing ongoing capital programs and have outstanding senior bonds under a pre-existing indenture, if—

''(I) the line of credit is rated in the A-category or higher;

''(II) the TIFIA program loan resulting from a draw on the line of credit is payable from pledged revenues not affected by project performance, such as a tax-backed revenue pledge or a system-backed pledge of project revenues; and

''(III) the TIFIA program share of eligible project costs is 33 percent or less.

''(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

''(I) the maximum credit subsidy that will be paid by the Federal Government shall be limited to 10 percent of the principal amount of the secured loan; and

''(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

''(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

''(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section shall not also receive a secured loan or loan guarantee under section 603 in an amount that, combined with the amount of the line of credit, exceeds 49 percent of eligible project costs.

''(c) REPAYMENT.—

''(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources, and the useful life of the asset being financed.

''(2) TIMING.—All repayments of principal or interest on a direct loan under this section shall be scheduled to commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and to conclude, with full repayment of principal and interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

''§ 605. Program administration

''(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this chapter.

''(b) FEES.—The Secretary may collect and spend fees, contingent upon authority being provided in appropriations Acts, at a level that is sufficient to cover—

''(1) the costs of services of expert firms retained pursuant to subsection (d); and

''(2) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

''(c) SERVICER.—

''(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

''(2) DUTIES.—The servicer shall act as the agent for the Secretary.

''(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

''(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

''§ 606. State and local permits

''The provision of credit assistance under this chapter with respect to a project shall not—

''(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

''(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

''(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

''§ 607. Regulations

''The Secretary may promulgate such regulations as the Secretary determines appropriate to carry out this chapter.

''§ 608. Funding

''(a) FUNDING.—

''(1) SPENDING AND BORROWING AUTHORITY.—Spending and borrowing authority for a fiscal year to enter into Federal credit instruments shall be promptly apportioned to the Secretary on a fiscal year basis.

''(2) REESTIMATES.—When the estimated cost of a loan or loans is reestimated, the cost of the reestimate shall be borne by or benefit the general fund of the Treasury, consistent with section 661c(f) of title 2, United States Code.

''(3) RURAL SET-ASIDE.—

''(A) IN GENERAL.—Of the total amount of funds made available to carry out this chapter for each fiscal year, 10 percent shall be set aside for rural infrastructure projects.

''(B) REOBLIGATION.—Any amounts set aside under subparagraph (A) that remain unobligated by June 1 of the fiscal year for which the amounts were set aside shall be available for obligation by the Secretary on projects other than rural infrastructure projects.

''(4) REDISTRIBUTION OF AUTHORIZED FUNDING.—

''(A) IN GENERAL.—Beginning in the second fiscal year after the date of enactment of this paragraph, on August 1 of that fiscal year, and each fiscal year thereafter, if the unobligated and uncommitted balance of funding available exceeds 150 percent of the amount made available to carry out this chapter for that fiscal year, the Secretary shall distribute to the States the amount of funds and associated obligation authority in excess of that amount.

''(B) DISTRIBUTION.—The amounts and obligation authority distributed under this paragraph shall be distributed, in the same manner as obligation authority is distributed to the States for the fiscal year, based on the proportion that—

''(i) the relative share of each State of obligation authority for the fiscal year; bears to

''(ii) the total amount of obligation authority distributed to all States for the fiscal year.

''(C) PURPOSE.—Funds distributed under subparagraph (B) shall be available for any purpose described in section 133(c).

''(5) AVAILABILITY.—Amounts made available to carry out this chapter shall remain available until expended.

''(6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out this chapter, the Secretary may use not more than 1 percent for each fiscal year for the administration of this chapter.

''(b) CONTRACT AUTHORITY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, execution of a term sheet by the Secretary of a Federal credit instrument that uses amounts made available under this chapter shall impose on the United States a contractual obligation to fund the Federal credit investment.

''(2) AVAILABILITY.—Amounts made available to carry out this chapter for a fiscal year shall be available for obligation on October 1 of the fiscal year.

''§ 609. Reports to Congress

''On June 1, 2012, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter (other than section 610), including a recommendation as to whether the objectives of this chapter (other than section 610) are best served—

''(1) by continuing the program under the authority of the Secretary;

''(2) by establishing a Federal corporation or federally sponsored enterprise to administer the program; or

''(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter (other than section 610) without Federal participation.''.

SEC. 3003. STATE INFRASTRUCTURE BANKS.

Section 610(d)(1)(A) of title 23, United States Code, is amended by striking ''sections 104(b)(1)'' and all that follows though the semicolon and inserting ''paragraphs (1) and (2) of section 104(b)''.

TITLE IV—HIGHWAY SPENDING CONTROLS

SEC. 4001. HIGHWAY SPENDING CONTROLS.

(a) IN GENERAL.—Title 23, United States Code, is amended by adding at the end the following:

CHAPTER 7—HIGHWAY SPENDING CONTROLS

Sec.
701. Solvency of Highway Account of the Highway Trust Fund.

''SEC. 701. SOLVENCY OF HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND.

''(a) SOLVENCY CALCULATION FOR FISCAL YEAR 2012.—

''(1) ADJUSTMENT OF OBLIGATION LIMITATION.—Not later than 60 days after the date of enactment of the MAP–21, the Secretary, in consultation with the Secretary of Treasury, shall:

''(A) Estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of fiscal years 2012 and 2013. For purposes of which estimation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs will be equal to the obligation limitations enacted for those fiscal years in the MAP–21.

''(B) Determine if the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below—

''(i) $2,000,000,000 at the end of fiscal year 2012; or

''(ii) $1,000,000,000 at the end of fiscal year 2013.

''(C) If either of the conditions in subparagraph (B) would occur, calculate the amount by which the fiscal year 2012 obligation limitation must be reduced to prevent such occurrence. For purposes of this calculation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the fiscal year 2013 will be equal to the obligation limitation for fiscal year 2012, as reduced pursuant to this subparagraph.

''(D) Adjust the distribution of the fiscal year 2012 obligation limitation to reflect any reduction determined under subparagraph (C).

''(2) LAPSE AND RESCISSION.—

''(A) LAPSE OF OBLIGATION LIMITATION.—Any obligation limitation that is withdrawn by the Secretary pursuant to paragraph (1)(D) shall lapse immediately following the adjustment of obligation limitation under such paragraph.

''(B) RESCISSION OF CONTRACT AUTHORITY.—Upon the lapse of any obligation limitation under subparagraph (A), the Secretary shall reduce proportionately the amount authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 2012 to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief and funds under the national highway performance program that are exempt from the fiscal year 2012 obligation limitation) by an aggregate amount equal to the amount of adjustment determined pursuant to paragraph (1)(D). The amounts withdrawn pursuant to this subparagraph are permanently rescinded.

''(b) SOLVENCY CALCULATION FOR FISCAL YEAR 2013 AND FISCAL YEARS THEREAFTER.—

''(1) ADJUSTMENT OF OBLIGATION LIMITATION.—Except as provided in paragraph (2), in distributing the obligation limitation on Federal-aid highways and highway safety construction programs for fiscal year 2013 and each fiscal year thereafter, the Secretary shall—

''(A) estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of such fiscal year and the end of the next fiscal year, for purposes of which estimation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the next fiscal year will be equal to the obligation limitation enacted for the fiscal year for which the limitation is being distributed;

''(B) determine whether the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below $2,000,000,000 at the end of the fiscal year for which the obligation limitation is being distributed;

''(C) if the condition in subparagraph (B) would occur, calculate the amount by which the obligation limitation in the fiscal year for which the obligation limitation is being distributed must be reduced to prevent that occurrence; and

''(D) distribute such obligation limitation less any amount determined under subparagraph (C).

''(2) LAPSE AND RESCISSION.—

''(A) OBLIGATION LIMITATION.—

''(i) RECALCULATION.—In a fiscal year in which the Secretary withholds obligation limitation based on the calculation under paragraph (1), the Secretary shall, on March 1 of such fiscal year, repeat the calculations under subparagraphs (A) through (C) of such paragraph. Based on the results of those calculations, the Secretary shall—

''(I) if the Secretary determines that either of the conditions in paragraph (1)(B) would occur, withdraw an additional amount of obligation limitation necessary to prevent such occurrence; or

''(II) distribute as much of the withheld obligation limitation as may be distributed without causing either of the conditions specified in paragraph (1)(B) to occur.

''(ii) LAPSE.—Any obligation limitation that is enacted for a fiscal year, withheld from distribution pursuant to paragraph (1)(D) (or withdrawn under clause (i)(I)), and not subsequently distributed under clause (i)(II) shall lapse immediately following the distribution of obligation limitation under such clause.

''(B) CONTRACT AUTHORITY.—

''(i) IN GENERAL.—Upon the lapse of any obligation limitation under subparagraph (A)(ii), an equal amount of the unobligated balances of funds apportioned among the States under chapter 1 and sections 1116, 1303, and 1404 of the SAFETEA–LU (119 Stat. 1177, 1207, and 1228) are permanently rescinded. In administering the rescission required under this clause, the Secretary shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies, except as provided in clause (ii).

''(ii) RESCISSION OF FUNDS APPORTIONED IN FISCAL YEAR 2013 AND FISCAL YEARS THEREAFTER.—If a State determines that it will meet any of its required rescission amount from funds apportioned to such State on or subsequent to October 1, 2012, the Secretary shall determine the amount to be rescinded from each of the programs subject to the rescission for which the State was apportioned funds on or subsequent to October 1, 2012, in proportion to the cumulative amount of apportionments that the State received for each such program on or subsequent to October 1, 2012.

''(3) OTHER ACTIONS TO PREVENT INSOLVENCY.—The Secretary shall issue a regulation to establish any actions in addition to those described in subsection (a) and paragraph (1) that may be taken by the Secretary if it becomes apparent that the Highway Trust Fund (other than the Mass Transit Account) will become insolvent, including the denial of further obligations.

''(4) APPLICABLE ONLY TO FULL-YEAR LIMITATION.—The requirements of paragraph (1) apply only to the distribution of a full-year obligation limitation and do not apply to partial-year limitations under continuing appropriations Acts.''.

(b) TABLE OF CHAPTERS.—The table of chapters for title 23, United States Code, is amended by inserting after the item relating to chapter 6 the following:

''7. Highway Spending Controls ..... 701''.

DIVISION B—PUBLIC TRANSPORTATION

SEC. 20001. SHORT TITLE.

This division may be cited as the ''Federal Public Transportation Act of 2012''.

SEC. 20002. REPEALS.

(a) CHAPTER 53.—Chapter 53 of title 49, United States Code, is amended by striking sections 5316, 5317, 5321, 5324, 5328, and 5339.

(b) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) is repealed.

(c) SAFETEA–LU.—The following provisions are repealed:

(1) Section 3009(i) of SAFETEA–LU (Public Law 109–59; 119 Stat. 1572).

(2) Section 3011(c) of SAFETEA–LU (49 U.S.C. 5309 note).

(3) Section 3012(b) of SAFETEA–LU (49 U.S.C. 5310 note).

(4) Section 3045 of SAFETEA–LU (49 U.S.C. 5308 note).

(5) Section 3046 of SAFETEA–LU (49 U.S.C. 5338 note).

SEC. 20003. POLICIES, PURPOSES, AND GOALS.

Section 5301 of title 49, United States Code, is amended to read as follows:

''§ 5301. Policies, purposes, and goals

''(a) DECLARATION OF POLICY.—It is in the interest of the United States, including the economic interest of the United States, to foster the development and revitalization of public transportation systems.

''(b) GENERAL PURPOSES.—The purposes of this chapter are to—

''(1) provide funding to support public transportation;

''(2) improve the development and delivery of capital projects;

''(3) initiate a new framework for improving the safety of public transportation systems;

''(4) establish standards for the state of good repair of public transportation infrastructure and vehicles;

''(5) promote continuing, cooperative, and comprehensive planning that improves the performance of the transportation network;

''(6) establish a technical assistance program to assist recipients under this chapter to more effectively and efficiently provide public transportation service;

''(7) continue Federal support for public transportation providers to deliver high quality service to all users, including individuals with disabilities, seniors, and individuals who depend on public transportation;

''(8) support research, development, demonstration, and deployment projects dedicated to assisting in the delivery of efficient and effective public transportation service; and

''(9) promote the development of the public transportation workforce.

''(c) NATIONAL GOALS.—The goals of this chapter are to—

''(1) increase the availability and accessibility of public transportation across a balanced, multimodal transportation network;

''(2) promote the environmental benefits of public transportation, including reduced reliance on fossil fuels, fewer harmful emissions, and lower public health expenditures;

''(3) improve the safety of public transportation systems;

''(4) achieve and maintain a state of good repair of public transportation infrastructure and vehicles;

''(5) provide an efficient and reliable alternative to congested roadways;

''(6) increase the affordability of transportation for all users; and

''(7) maximize economic development opportunities by—

''(A) connecting workers to jobs;

''(B) encouraging mixed-use, transit-oriented development; and

''(C) leveraging private investment and joint development.''.

SEC. 20004. DEFINITIONS.

Section 5302 of title 49, United States Code, is amended to read as follows:

''§ 5302. Definitions

''Except as otherwise specifically provided, in this chapter the following definitions apply:

''(1) ASSOCIATED TRANSIT IMPROVEMENT.—The term 'associated transit improvement' means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

''(A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service;

''(B) bus shelters;

''(C) landscaping and streetscaping, including benches, trash receptacles, and street lights;

''(D) pedestrian access and walkways;

''(E) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

''(F) signage; or

''(G) enhanced access for persons with disabilities to public transportation.

''(2) BUS RAPID TRANSIT SYSTEM.—The term 'bus rapid transit system' means a bus transit system—

''(A) in which the majority of each line operates in a separated right-of-way dedicated for public transportation use during peak periods; and

''(B) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

''(i) defined stations;

''(ii) traffic signal priority for public transportation vehicles;

''(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

''(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

''(3) CAPITAL PROJECT.—The term 'capital project' means a project for—

''(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

''(B) rehabilitating a bus;

''(C) remanufacturing a bus;

''(D) overhauling rail rolling stock;

''(E) preventive maintenance;

''(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

''(G) a joint development improvement that—

''(i) enhances economic development or incorporates private investment, such as commercial and residential development;

''(ii)(I) enhances the effectiveness of public transportation and is related physically or functionally to public transportation; or

''(II) establishes new or enhanced coordination between public transportation and other transportation;

''(iii) provides a fair share of revenue that will be used for public transportation;

''(iv) provides that a person making an agreement to occupy space in a facility constructed under this paragraph shall pay a fair share of the costs of the facility through rental payments and other means;

''(v) may include—

''(I) property acquisition;

''(II) demolition of existing structures;

''(III) site preparation;

''(IV) utilities;

''(V) building foundations;

''(VI) walkways;

''(VII) pedestrian and bicycle access to a public transportation facility;

''(VIII) construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

''(IX) renovation and improvement of historic transportation facilities;

''(X) open space;

''(XI) safety and security equipment and facilities (including lighting, surveillance, and related intelligent transportation system applications);

''(XII) facilities that incorporate community services such as daycare or health care;

''(XIII) a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and

''(XIV) construction of space for commercial uses; and

''(vi) does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation;

''(H) the introduction of new technology, through innovative and improved products, into public transportation;

''(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311;

''(J) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter;

''(K) mobility management—

''(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

''(ii) excluding operating public transportation services; or

''(L) associated capital maintenance, including—

''(i) equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used; and

''(ii) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.

''(4) DESIGNATED RECIPIENT.—The term 'designated recipient' means—

''(A) an entity designated, in accordance with the planning process under sections 5303 and 5304, by the Governor of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 to urbanized areas of 200,000 or more in population; or

''(B) a State or regional authority, if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

''(5) DISABILITY.—The term 'disability' has the same meaning as in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

''(6) EMERGENCY REGULATION.—The term 'emergency regulation' means a regulation—

''(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

''(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

''(i) would injure seriously an important public interest;

''(ii) would frustrate substantially legislative policy and intent; or

''(iii) would damage seriously a person or class without serving an important public interest.

''(7) FIXED GUIDEWAY.—The term 'fixed guideway' means a public transportation facility—

''(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

''(B) using rail;

''(C) using a fixed catenary system;

''(D) for a passenger ferry system; or

''(E) for a bus rapid transit system.

''(8) GOVERNOR.—The term 'Governor'—

''(A) means the Governor of a State, the mayor of the District of Columbia, and the chief executive officer of a territory of the United States; and

''(B) includes the designee of the Governor.

''(9) LOCAL GOVERNMENTAL AUTHORITY.—The term 'local governmental authority' includes—

''(A) a political subdivision of a State;

''(B) an authority of at least 1 State or political subdivision of a State;

''(C) an Indian tribe; and

''(D) a public corporation, board, or commission established under the laws of a State.

''(10) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means an individual whose family income is at or below 150 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

''(11) NET PROJECT COST.—The term 'net project cost' means the part of a project that reasonably cannot be financed from revenues.

''(12) NEW BUS MODEL.—The term 'new bus model' means a bus model (including a model using alternative fuel)—

''(A) that has not been used in public transportation in the United States before the date of production of the model; or

''(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

''(13) PUBLIC TRANSPORTATION.—The term 'public transportation'—

''(A) means regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and

''(B) does not include—

''(i) intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity);

''(ii) intercity bus service;

''(iii) charter bus service;

''(iv) school bus service;

''(v) sightseeing service;

''(vi) courtesy shuttle service for patrons of one or more specific establishments; or

''(vii) intra-terminal or intra-facility shuttle services.

''(14) REGULATION.—The term 'regulation' means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

''(15) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(16) SENIOR.—The term 'senior' means an individual who is 65 years of age or older.

''(17) STATE.—The term 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

''(18) STATE OF GOOD REPAIR.—The term 'state of good repair' has the meaning given that term by the Secretary, by rule, under section 5326(b).

''(19) TRANSIT.—The term 'transit' means public transportation.

''(20) URBAN AREA.—The term 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

''(21) URBANIZED AREA.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.''.

SEC. 20005. METROPOLITAN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 5303 of title 49, United States Code, is amended to read as follows:

''§ 5303. Metropolitan transportation planning

''(a) POLICY.—It is in the national interest—

''(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and statewide transportation planning processes identified in this chapter;

''(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transportation and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 5304(d);

''(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

''(4) to maximize the effectiveness of transportation investments.

''(b) DEFINITIONS.—In this section and section 5304, the following definitions shall apply:

''(1) EXISTING MPO.—The term 'existing MPO' means a metropolitan planning organization that was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012.

''(2) LOCAL OFFICIAL.—The term 'local official' means any elected or appointed official of general purpose local government with responsibility for transportation in a designated area.

''(3) MAINTENANCE AREA.—The term 'maintenance area' means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection

Agency as an air quality attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

''(4) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

''(5) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the policy board of an organization established pursuant to subsection (c).

''(6) METROPOLITAN TRANSPORTATION PLAN.—The term 'metropolitan transportation plan' means a plan developed by a metropolitan planning organization under subsection (i).

''(7) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

''(8) NONMETROPOLITAN AREA.—

''(A) IN GENERAL.—The term 'nonmetropolitan area' means a geographical area outside the boundaries of a designated metropolitan planning area.

''(B) INCLUSIONS.—The term 'nonmetropolitan area' includes a small urbanized area with a population of more than 50,000, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and a nonurbanized area.

''(9) NONMETROPOLITAN PLANNING ORGANIZATION.—The term 'nonmetropolitan planning organization' means an organization that—

''(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the Federal Public Transportation Act of 2012; and

''(B) is not designated as a tier I MPO or tier II MPO.

''(10) REGIONALLY SIGNIFICANT.—The term 'regionally significant', with respect to a transportation project, program, service, or strategy, means a project, program, service, or strategy that—

''(A) serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, and major planned developments); and

''(B) would normally be included in the modeling of a transportation network of a metropolitan area.

''(11) RURAL PLANNING ORGANIZATION.—The term 'rural planning organization' means a voluntary organization of local elected officials and representatives of local transportation systems that—

''(A) works in cooperation with the department of transportation (or equivalent entity) of a State to plan transportation networks and advise officials of the State on transportation planning; and

''(B) is located in a rural area—

''(i) with a population of not fewer than 5,000 individuals, as calculated according to the most recent decennial census; and

''(ii) that is not located in an area represented by a metropolitan planning organization.

''(12) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'statewide transportation improvement program' means a statewide transportation improvement program developed by a State under section 5304(g).

''(13) STATEWIDE TRANSPORTATION PLAN.—The term 'statewide transportation plan' means a plan developed by a State under section 5304(f).

''(14) TIER I MPO.—The term 'tier I MPO' means a metropolitan planning organization designated as a tier I MPO under subsection (e)(4)(A).

''(15) TIER II MPO.—The term 'tier II MPO' means a metropolitan planning organization designated as a tier II MPO under subsection (e)(4)(B).

''(16) TRANSPORTATION IMPROVEMENT PROGRAM.—The term 'transportation improvement program' means a program developed by a metropolitan planning organization under subsection (j).

''(17) URBANIZED AREA.—The term 'urbanized area' means a geographical area with a population of 50,000 or more individuals, as calculated according to the most recent decennial census.

''(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

''(1) IN GENERAL.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census—

''(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); or

''(B) in accordance with procedures established by applicable State or local law.

''(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated for any urbanized area with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census—

''(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census); and

''(B) with the consent of the Secretary, based on a finding that the resulting metropolitan planning organization has met the minimum requirements under subsection (e)(4)(B).

''(3) STRUCTURE.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, a metropolitan planning organization shall consist of—

''(A) elected local officials in the relevant metropolitan area;

''(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

''(C) appropriate State officials.

''(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

''(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

''(B) to develop capital plans, coordinate public transportation services and projects, or carry out other activities pursuant to State law.

''(5) CONTINUING DESIGNATION.—A designation of an existing MPO—

''(A) for an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, shall remain in effect—

''(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

''(ii) until the date on which the existing MPO is redesignated under paragraph (6); and

''(B) for an urbanized area with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, shall remain in effect until the date on which the existing MPO is redesignated under paragraph (6) unless—

''(i) the existing MPO requests that its planning responsibilities be transferred to the State or to another planning organization designated by the State; or

''(ii)(I) the applicable Governor determines not later than 3 years after the date on which the Secretary issues a rule pursuant to subsection (e)(4)(B)(i), that the existing MPO is not meeting the minimum requirements established by the rule; and

''(II) the Secretary approves the Governor's determination.

''(C) DESIGNATION AS TIER II MPO.—If the Secretary determines the existing MPO has met the minimum requirements under the rule issued under subsection (e)(4)(B)(i), the Secretary shall designate the existing MPO as a tier II MPO.

''(6) REDESIGNATION.—

''(A) IN GENERAL.—The designation of a metropolitan planning organization under this subsection shall remain in effect until the date on which the metropolitan planning organization is redesignated, as appropriate, in accordance with the requirements of this subsection pursuant to an agreement between—

''(i) the applicable Governor; and

''(ii) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as calculated according to the most recent decennial census).

''(B) RESTRUCTURING.—A metropolitan planning organization may be restructured to meet the requirements of paragraph (3) without undertaking a redesignation.

''(7) DESIGNATION OF MULTIPLE MPOS.—

''(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

''(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of which shall be served by the existing MPO or a new metropolitan planning organization.

''(C) TIER DESIGNATION.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size of each respective metropolitan planning area, in accordance with subsection (e)(4).

''(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

''(1) IN GENERAL.—For purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the applicable metropolitan planning organization and the Governor of the State in which the metropolitan planning area is located.

''(2) INCLUDED AREA.—Each metropolitan planning area—

''(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a

20-year forecast period under the applicable metropolitan transportation plan; and

''(B) may encompass the entire relevant metropolitan statistical area, as defined by the Office of Management and Budget.

''(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

''(4) NONATTAINMENT AND MAINTENANCE AREAS.—

''(A) EXISTING METROPOLITAN PLANNING AREAS.—

''(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

''(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with subsection (c)(7).

''(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the Federal Public Transportation Act of 2012, the boundaries of the applicable metropolitan planning area—

''(i) shall be established in accordance with subsection (c)(1);

''(ii) shall encompass the areas described in paragraph (2)(A);

''(iii) may encompass the areas described in paragraph (2)(B); and

''(iv) may address any appropriate nonattainment area or maintenance area.

''(e) REQUIREMENTS.—

''(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improvement programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h).

''(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

''(A) an intermodal transportation system for the metropolitan planning area; and

''(B) an integral part of an intermodal transportation system for the applicable State and the United States.

''(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

''(A) provide for consideration of all modes of transportation; and

''(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

''(4) TIERING.—

''(A) TIER I MPOS.—

''(i) IN GENERAL.—A metropolitan planning organization shall be designated as a tier I MPO if—

''(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individuals, as calculated according to the most recent decennial census; and

''(II) the Secretary determines the metropolitan planning organization—

''(aa) meets the minimum technical requirements under clause (iv); and

''(bb) not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, will fully implement the processes described in subsections (h) though (j).

''(ii) ABSENCE OF DESIGNATION.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

''(iii) REDESIGNATION AS TIER I.—A metropolitan planning organization operating within a metropolitan planning area with a population of 200,000 or more and fewer than 1,000,000 individuals and primarily within urbanized areas with populations of 200,000 or more individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has met the minimum technical requirements under clause (iv).

''(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes the minimum technical requirements necessary for a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

''(B) TIER II MPOS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a rule that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

''(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

''(I) ensure that each metropolitan planning organization has the capabilities necessary to develop the metropolitan transportation plan and transportation improvement program under this section; and

''(II) include—

''(aa) only the staff resources necessary to operate the metropolitan planning organization; and

''(bb) a requirement that the metropolitan planning organization has the technical capacity to conduct the modeling necessary, as appropriate to the size and resources of the metropolitan planning organization, to fulfill the requirements of this section, except that in cases in which a metropolitan planning organization has a formal agreement with a State to conduct the modeling on behalf of the metropolitan planning organization, the metropolitan planning organization shall be exempt from the technical capacity requirement.

''(iii) INCLUSION.—A metropolitan planning organization operating primarily within an urbanized area with a population of 200,000 or more individuals, as calculated according to the most recent decennial census, and that does not qualify as a tier I MPO under subparagraph (A)(i), shall—

''(I) be designated as a tier II MPO; and

''(II) follow the processes under subsection (k).

''(C) CONSOLIDATION.—

''(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous or adjacent urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

''(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

''(f) COORDINATION IN MULTISTATE AREAS.—

''(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

''(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

''(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 5304.

''(g) ENGAGEMENT IN METROPOLITAN TRANSPORTATION PLAN AND TIP DEVELOPMENT.—

''(1) NONATTAINMENT AND MAINTENANCE AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with all other metropolitan planning organizations designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

''(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE METROPOLITAN PLANNING AREAS.—If a transportation improvement project funded under this chapter or title 23 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

''(3) COORDINATION OF ADJACENT PLANNING ORGANIZATIONS.—

''(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

''(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

''(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

''(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

''(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

''(i) recipients of assistance under sections 202, 203, and 204 of title 23;

''(ii) recipients of assistance under this title;

''(iii) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

''(iv) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

''(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

''(h) SCOPE OF PLANNING PROCESS.—

''(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

''(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

''(B) increase the safety of the transportation system for motorized and nonmotorized users;

''(C) increase the security of the transportation system for motorized and nonmotorized users;

''(D) increase the accessibility and mobility of individuals and freight;

''(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

''(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

''(G) increase efficient system management and operation; and

''(H) emphasize the preservation of the existing transportation system.

''(2) PERFORMANCE-BASED APPROACH.—

''(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

''(B) PERFORMANCE TARGETS.—

''(i) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

''(I) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k) (where applicable), and 167(i) of title 23, to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

''(II) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

''(ii) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—Each metropolitan planning organization shall adopt the performance targets identified by providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

''(C) TIMING.—Each metropolitan planning organization shall establish or adopt the performance targets under subparagraph (B) not later than 90 days after the date on which the relevant State or provider of public transportation establishes the performance targets.

''(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in other State plans and processes, as well as asset management and safety plans developed by providers of public transportation, required as part of a performance-based program, including plans such as—

''(i) the State National Highway System asset management plan;

''(ii) asset management plans developed by providers of public transportation;

''(iii) the State strategic highway safety plan;

''(iv) safety plans developed by providers of public transportation;

''(v) the congestion mitigation and air quality performance plan, where applicable;

''(vi) the national freight strategic plan; and

''(vii) the statewide transportation plan.

''(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan transportation plan and transportation improvement program.

''(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation improvement program, a project or strategy, or the certification of a planning process.

''(4) PARTICIPATION BY INTERESTED PARTIES.—

''(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

''(B) CONTENTS OF PARTICIPATION PLAN.—Each metropolitan planning organization shall establish a participation plan that—

''(i) is developed in consultation with all interested parties; and

''(ii) provides that all interested parties have reasonable opportunities to comment on the contents of the metropolitan transportation plan of the metropolitan planning organization.

''(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

''(i) develop the metropolitan transportation plan and transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the community and interested parties that participate in the development of the metropolitan transportation plan and transportation improvement program;

''(ii) hold any public meetings at times and locations that are, as applicable—

''(I) convenient; and

''(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(iii) employ visualization techniques to describe metropolitan transportation plans and transportation improvement programs; and

''(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

''(i) DEVELOPMENT OF METROPOLITAN TRANSPORTATION PLAN.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropolitan planning area in accordance with this section.

''(B) EXCEPTIONS.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

''(i) a nonattainment area; or

''(ii) a maintenance area.

''(2) OTHER REQUIREMENTS.—A metropolitan transportation plan under this section shall—

''(A) be in a form that the Secretary determines to be appropriate;

''(B) have a term of not less than 20 years; and

''(C) contain, at a minimum—

''(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

''(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

''(iii) a description of the current and projected future usage of the transportation system, including a projection based on a preferred scenario, and further including, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

''(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

''(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

''(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

''(aa) the projects included in the transportation improvement program; and

''(bb) the projects that have been removed from the previous transportation improvement program; and

''(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the costs necessary to achieve the identified performance targets;

''(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation systems deployment, and technology adoption strategies, as determined by the projected support of the performance targets described in subsection (h)(2);

''(vi) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure, including strategies and investments based on a preferred scenario, when appropriate;

''(vii) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (4);

''(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

''(ix) an optional illustrative list of projects containing investments that—

''(I) are not included in the metropolitan transportation plan; but

''(II) would be so included if resources in addition to the resources identified in the financial plan under paragraph (4) were available;

''(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan; and

''(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

''(3) SCENARIO DEVELOPMENT.—

''(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of their community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

''(B) COMPONENTS OF SCENARIOS.—The scenarios—

''(i) shall include potential regional investment strategies for the planning horizon;

''(ii) shall include assumed distribution of population and employment;

''(iii) may include a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance targets identified in subsection (h)(2);

''(iv) may include a scenario that improves the baseline conditions for as many of the performance targets under subsection (h)(2) as possible;

''(v) may include a revenue constrained scenario based on total revenues reasonably expected to be available over the 20-year planning period and assumed population and employment; and

''(vi) may include estimated costs and potential revenues available to support each scenario.

''(C) METRICS.—In addition to the performance targets identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally developed metrics for the following categories:

''(i) Congestion and mobility, including transportation use by mode.

''(ii) Freight movement.

''(iii) Safety.

''(iv) Efficiency and costs to taxpayers.

''(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—

''(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

''(B) contain a description of—

''(i) the projected resource requirements for implementing projects, strategies, and services recommended in the metropolitan transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

''(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

''(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan; and

''(iv) each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(5) COORDINATION WITH CLEAN AIR ACT AGENCIES.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(6) PUBLICATION.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

''(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet; and

''(B) submitted for informational purposes to the applicable Governor.

''(7) CONSULTATION.—

''(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with Federal, State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a metropolitan transportation plan.

''(B) ISSUES.—The consultation under subparagraph (A) shall involve, as available, consideration of—

''(i) metropolitan transportation plans with Federal, State, tribal, and local conservation plans or maps; and

''(ii) inventories of natural or historic resources.

''(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the metropolitan transportation plan under paragraph (2)(C)(ix).

''(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—In cooperation with the applicable State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the metropolitan planning area that—

''(i) contains projects consistent with the current metropolitan transportation plan;

''(ii) reflects the investment priorities established in the current metropolitan transportation plan; and

''(iii) once implemented, will make significant progress toward achieving the performance targets established under subsection (h)(2).

''(B) OPPORTUNITY FOR PARTICIPATION.—In developing the transportation improvement program, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

''(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

''(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 5304; and

''(ii) approved by the applicable Governor.

''(2) CONTENTS.—

''(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

''(B) DESCRIPTIONS.—Each project described in the transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that

the project or project phase will have in addressing the performance targets described in subsection (h)(2).

''(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

''(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

''(i) are not included in the transportation improvement program; but

''(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

''(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

''(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

''(B) contain a description of—

''(i) the projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

''(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

''(iii) estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are reasonably expected to be available to support the investment priorities recommended in the transportation improvement program; and

''(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(4) INCLUDED PROJECTS.—

''(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A transportation improvement program developed under this subsection for a metropolitan area shall include a description of the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

''(B) PROJECTS UNDER CHAPTER 2.—

''(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

''(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the transportation improvement program.

''(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

''(6) SELECTION OF PROJECTS.—

''(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(2) of title 23 and suballocated to the metropolitan planning area under section 133(d) of title 23.

''(B) PROJECTS UNDER CHAPTER 53.—In the case of projects under this chapter, the selection of federally funded projects in metropolitan areas shall be carried out, from the approved transportation improvement program, by the designated recipients of public transportation funding in cooperation with the metropolitan planning organization.

''(C) CONGESTION MITIGATION AND AIR QUALITY PROJECTS.—Each tier I MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to the State under section 104(b)(4) of title 23 and suballocated to the metropolitan planning area under section 149(j) of title 23.

''(D) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in a transportation improvement program in place of another project in the transportation improvement program.

''(7) PUBLICATION.—

''(A) IN GENERAL.—A transportation improvement program shall be published or otherwise made readily available by the applicable metropolitan planning organization for public review in electronically accessible formats and means, such as the Internet.

''(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant transportation improvement program.

''(k) PLANNING REQUIREMENTS FOR TIER II MPOS.—

''(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—

''(A) the complexity of transportation needs in the area; and

''(B) the technical capacity of the metropolitan planning organization.

''(2) EVALUATION OF PERFORMANCE-BASED PLANNING.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

''(A) addresses the performance targets described in subsection (h)(2); and

''(B) demonstrates progress on the achievement of those performance targets.

''(l) CERTIFICATION.—

''(1) IN GENERAL.—The Secretary shall—

''(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

''(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.

''(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

''(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law;

''(B) representation on the metropolitan planning organization board includes officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area, including providers of public transportation; and

''(C) a transportation improvement program for the metropolitan planning area has been approved by the relevant metropolitan planning organization and applicable Governor.

''(3) DELEGATION OF AUTHORITY.—The Secretary may—

''(A) delegate to the appropriate State fact-finding authority regarding the certification of a tier II MPO under this subsection; and

''(B) make the certification under paragraph (1) in consultation with the State.

''(4) EFFECT OF FAILURE TO CERTIFY.—

''(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.

''(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

''(5) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

''(m) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

''(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the following:

''(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the performance targets specified in subsection (h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

''(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

''(C) The extent to which the metropolitan planning organization—

''(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

''(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

''(2) REPORT.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal

Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

''(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

''(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

''(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

''(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this chapter or title 23, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles, unless the owner or operator of the project demonstrates that the project will achieve or make substantial progress toward achieving the performance targets described in subsection (h)(2).

''(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area within the boundaries of a metropolitan planning area, as determined under subsection (d).

''(o) EFFECT OF SECTION.—Nothing in this section provides to any metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this chapter or title 23.

''(p) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) of this title shall be available to carry out this section.

''(q) CONTINUATION OF CURRENT REVIEW PRACTICE.—

''(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

''(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;

''(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

''(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary.''.

(b) PILOT PROGRAM FOR TRANSIT-ORIENTED DEVELOPMENT PLANNING.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term ''eligible project'' means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section 5309 of title 49, United States Code, as amended by this division.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(2) GENERAL AUTHORITY.—The Secretary may make grants under this subsection to a State or local governmental authority to assist in financing comprehensive planning associated with an eligible project that seeks to—

(A) enhance economic development, ridership, and other goals established during the project development and engineering processes;

(B) facilitate multimodal connectivity and accessibility;

(C) increase access to transit hubs for pedestrian and bicycle traffic;

(D) enable mixed-use development;

(E) identify infrastructure needs associated with the eligible project; and

(F) include private sector participation.

(3) ELIGIBILITY.—A State or local governmental authority that desires to participate in the program under this subsection shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and process for the development of a comprehensive plan;

(C) a description of how the eligible project and the proposed comprehensive plan advance the metropolitan transportation plan of the metropolitan planning organization;

(D) proposed performance criteria for the development and implementation of the comprehensive plan; and

(E) identification of—

(i) partners;

(ii) availability of and authority for funding; and

(iii) potential State, local or other impediments to the implementation of the comprehensive plan.

SEC. 20006. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

Section 5304 of title 49, United States Code, is amended to read as follows:

''§ 5304. Statewide and nonmetropolitan transportation planning

''(a) STATEWIDE TRANSPORTATION PLANS AND STIPS.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—To accomplish the policy objectives described in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

''(B) INCORPORATION OF METROPOLITAN TRANSPORTATION PLANS AND TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans and transportation improvement programs, respectively, for each metropolitan planning area in the State.

''(C) NONMETROPOLITAN AREAS.—Each State shall coordinate with local officials in small urbanized areas with a population of 50,000 or more individuals, but fewer than 200,000 individuals, as calculated according to the most recent decennial census, and nonurbanized areas of the State in preparing the nonmetropolitan portions of statewide transportation plans and statewide transportation improvement programs.

''(2) CONTENTS.—The statewide transportation plan and statewide transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

''(A) an intermodal transportation system for the State; and

''(B) an integral part of an intermodal transportation system for the United States.

''(3) PROCESS.—The process for developing the statewide transportation plan and statewide transportation improvement program shall—

''(A) provide for consideration of all modes of transportation; and

''(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation needs to be addressed.

''(b) COORDINATION AND CONSULTATION.—

''(1) IN GENERAL.—Each State shall—

''(A) coordinate planning carried out under this section with—

''(i) the transportation planning activities carried out under section 5303 for metropolitan areas of the State; and

''(ii) statewide trade and economic development planning activities and related multistate planning efforts;

''(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

''(C) coordinate planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

''(D) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(2) MULTISTATE AREAS.—

''(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

''(B) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

''(C) INTERSTATE COMPACTS.—For purposes of this section, any 2 or more States—

''(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

''(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

''(iii) are encouraged to enter into such compacts, agreements, or organizations as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected in statewide transportation improvement programs and statewide transportation plans.

''(D) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal any interstate compact or agreement entered into under this subsection is expressly reserved.

''(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

''(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, State, tribal, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

''(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

''(A) recipients of assistance under sections 202, 203, and 204 of title 23;

''(B) recipients of assistance under this chapter;

''(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and

''(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

''(d) SCOPE OF PLANNING PROCESS.—

''(1) IN GENERAL.—The statewide transportation planning process for a State under this section shall provide for consideration of projects, strategies, and services that will—

''(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

''(B) increase the safety of the transportation system for motorized and nonmotorized users;

''(C) increase the security of the transportation system for motorized and nonmotorized users;

''(D) increase the accessibility and mobility of individuals and freight;

''(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

''(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;

''(G) increase efficient system management and operation; and

''(H) emphasize the preservation of the existing transportation system.

''(2) PERFORMANCE-BASED APPROACH.—

''(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-making to support the national goals described in section 5301(c) of this title and in section 150(b) of title 23.

''(B) SURFACE TRANSPORTATION PERFORMANCE TARGETS.—

''(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), and 167(i) of title 23 to use in tracking attainment of critical outcomes for the region of the State.

''(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

''(C) PUBLIC TRANSPORTATION PERFORMANCE TARGETS.—For providers of public transportation operating in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, each State shall adopt the performance targets identified by such providers of public transportation pursuant to sections 5326(c) and 5329(d), for use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

''(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and performance targets described in this paragraph in other State plans and processes, and asset management and safety plans developed by providers of public transportation in urbanized areas with a population of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and not represented by a metropolitan planning organization, required as part of a performance-based program, including plans such as—

''(i) the State National Highway System asset management plan;

''(ii) asset management plans developed by providers of public transportation;

''(iii) the State strategic highway safety plan;

''(iv) safety plans developed by providers of public transportation; and

''(v) the national freight strategic plan.

''(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

''(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

''(4) PARTICIPATION BY INTERESTED PARTIES.—

''(A) IN GENERAL.—Each State shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

''(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

''(i) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and statewide transportation improvement program;

''(ii) hold any public meetings at times and locations that are, as applicable—

''(I) convenient; and

''(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(iii) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

''(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

''(e) COORDINATION AND CONSULTATION.—

''(1) METROPOLITAN AREAS.—

''(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incorporating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization designated for the metropolitan area under section 5303—

''(i) all regionally significant projects to be carried out during the 10-year period beginning on the effective date of the relevant existing metropolitan transportation plan; and

''(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

''(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes of metropolitan financial planning and fiscal constraint.

''(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in coordination with affected nonmetropolitan local officials with responsibility for transportation, including providers of public transportation.

''(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

''(A) the tribal government; and

''(B) the Secretary of the Interior.

''(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with the relevant Federal land management agency.

''(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

''(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, State, tribal, and local agencies responsible for land use management, natural resources, infrastructure permitting, environmental protection, conservation, and historic preservation.

''(B) COMPARISON AND CONSIDERATION.—Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

''(i) Federal, State, tribal, and local conservation plans or maps; and

''(ii) inventories of natural or historic resources.

''(f) STATEWIDE TRANSPORTATION PLAN.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

''(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for the first 10-year period of the statewide transportation plan, the identification of existing and future transportation facilities

that will function as an integrated statewide transportation system, giving emphasis to those facilities that serve important national, statewide, and regional transportation functions.

''(C) SUBSEQUENT PERIOD.—For the second 10-year period of the statewide transportation plan (referred to in this subsection as the 'outer years period'), a statewide transportation plan—

''(i) may include identification of future transportation facilities; and

''(ii) shall describe the policies and strategies that provide for the development and implementation of the intermodal transportation system of the State.

''(D) OTHER REQUIREMENTS.—A statewide transportation plan shall—

''(i) include, for the 20-year period covered by the statewide transportation plan, a description of—

''(I) the projected aggregate cost of projects anticipated by a State to be implemented; and

''(II) the revenues necessary to support the projects;

''(ii) include, in such form as the Secretary determines to be appropriate, a description of—

''(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, public transportation facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

''(II) the performance measures and performance targets used in assessing the existing and future performance of the transportation system described in subsection (d)(2);

''(III) the current and projected future usage of the transportation system, including, to the maximum extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

''(IV) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (d)(2) and updates to subsequent system performance reports, including—

''(aa) progress achieved by the State in meeting performance targets, as compared to system performance recorded in previous reports; and

''(bb) an accounting of the performance by the State on outlay of obligated project funds and delivery of projects that have reached substantial completion, in relation to the projects currently on the statewide transportation improvement program and those projects that have been removed from the previous statewide transportation improvement program;

''(V) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, land use improvements, intelligent transportation systems deployment and technology adoption strategies as determined by the projected support of performance targets described in subsection (d)(2);

''(VI) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure;

''(VII) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (2);

''(VIII) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

''(IX) an optional illustrative list of projects containing investments that—

''(aa) are not included in the statewide transportation plan; but

''(bb) would be so included if resources in addition to the resources identified in the financial plan under paragraph (2) were available;

''(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

''(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

''(iii) be updated by the State not less frequently than once every 5 years.

''(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

''(A) be prepared by each State to support the statewide transportation plan; and

''(B) contain a description of—

''(i) the projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

''(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

''(iii) estimates of future funds, to be developed cooperatively by the State, any public transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation plan;

''(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project; and

''(v) aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands, for the outer years period of the statewide transportation plan.

''(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—For any nonmetropolitan area that is a nonattainment area or maintenance area, the State shall coordinate the development of the statewide transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal participation programs, projects, and strategies shall be published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

''(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a State shall not be required to select any project from the illustrative list of additional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

''(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—In cooperation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall develop a statewide transportation improvement program for the State that—

''(i) includes projects consistent with the statewide transportation plan;

''(ii) reflects the investment priorities established in the statewide transportation plan; and

''(iii) once implemented, makes significant progress toward achieving the performance targets described in subsection (d)(2).

''(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation with affected public transportation operators, shall provide an opportunity for participation by interested parties in the development of the statewide transportation improvement program, in accordance with subsection (e).

''(C) OTHER REQUIREMENTS.—

''(i) IN GENERAL.—A statewide transportation improvement program shall—

''(I) cover a period of not less than 4 years; and

''(II) be updated not less frequently than once every 4 years, or more frequently, as the Governor determines to be appropriate.

''(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 5303, without change.

''(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

''(I) consistent with the statewide transportation plan developed under this section for the State;

''(II) identical to a project or phase of a project described in a relevant transportation improvement program; and

''(III) for any project located in a nonattainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).

''(2) CONTENTS.—

''(A) PRIORITY LIST.—A statewide transportation improvement program shall include a priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

''(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, estimated completion date, and other similar factors) to identify—

''(i) the project or project phase; and

''(ii) the effect that the project or project phase will have in addressing the performance targets described in subsection (d)(2).

''(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the anticipated effect of the statewide transportation improvement program toward achieving the performance targets established in the statewide transportation plan, linking investment priorities to those performance targets.

''(D) ILLUSTRATIVE LIST OF PROJECTS.—An optional illustrative list of projects may be prepared containing additional investment priorities that—

''(i) are not included in the statewide transportation improvement program; but

''(ii) would be so included if resources in addition to the resources identified in the financial plan under paragraph (3) were available.

''(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

''(A) be prepared by each State to support the statewide transportation improvement program; and

''(B) contain a description of—

''(i) the projected resource requirements for implementing projects, strategies, and services recommended in the statewide transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs;

''(ii) the projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment);

''(iii) estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program; and

''(iv) each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(4) INCLUDED PROJECTS.—

''(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A statewide transportation improvement program developed under this subsection for a State shall include the projects within the State that are proposed for funding under this chapter and chapter 1 of title 23.

''(B) PROJECTS UNDER THIS CHAPTER AND CHAPTER 2.—

''(i) REGIONALLY SIGNIFICANT.—Each regionally significant project proposed for funding under this chapter and chapter 2 of title 23 shall be identified individually in the statewide transportation improvement program.

''(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under this chapter and chapter 2 of title 23 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the statewide transportation improvement program.

''(5) PUBLICATION.—

''(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

''(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, public transportation operator, and relevant metropolitan planning organizations in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

''(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPOS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, as calculated according to the most recent decennial census, and that are not represented by designated metropolitan planning organizations, shall be selected from the approved statewide transportation improvement program (including projects carried out under this chapter and projects carried out by the State), in cooperation with the affected nonmetropolitan planning organization, if any exists, and in consultation with the affected nonmetropolitan area local officials with responsibility for transportation.

''(7) APPROVAL BY SECRETARY.—

''(A) IN GENERAL.—Not less frequently than once every 4 years, a statewide transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary, based on the current planning finding of the Secretary under subparagraph (B).

''(B) PLANNING FINDING.—The Secretary shall make a planning finding referred to in subparagraph (A) not less frequently than once every 5 years regarding whether the transportation planning process through which statewide transportation plans and statewide transportation improvement programs are developed is consistent with this section and section 5303.

''(8) MODIFICATIONS TO PROJECT PRIORITY.—Approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

''(h) CERTIFICATION.—

''(1) IN GENERAL.—The Secretary shall—

''(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with applicable Federal law; and

''(B) subject to paragraph (2), certify, not less frequently than once every 5 years, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

''(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—

''(A) the statewide transportation planning process complies with the requirements of this section and other applicable Federal law; and

''(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

''(3) EFFECT OF FAILURE TO CERTIFY.—

''(A) WITHHOLDING OF PROJECT FUNDS.—If a statewide transportation planning process of a State is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State for projects funded under this chapter and title 23.

''(B) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under subparagraph (A) shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

''(4) PUBLIC INVOLVEMENT.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

''(i) PERFORMANCE-BASED PLANNING PROCESSES EVALUATION.—

''(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

''(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the performance targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

''(B) The extent to which the State has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

''(C) The extent to which the State—

''(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

''(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

''(2) REPORT.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to Congress a report evaluating—

''(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

''(ii) the effectiveness of the performance-based planning process of each State.

''(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

''(j) FUNDING.—Funds apportioned under section 104(b)(6) of title 23 and set aside under section 5305(g) shall be available to carry out this section.

''(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

''(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

''(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

''(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

''(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to

their transportation plan or transportation improvement program updates not later than 2 years after the date of issuance of guidance by the Secretary under this subsection.''.

SEC. 20007. PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM.

(a) IN GENERAL.—Section 5306 of title 49, United States Code, is amended to read as follows:

''§ 5306. Public transportation emergency relief program

''(a) DEFINITION.—In this section the following definitions shall apply:

''(1) ELIGIBLE OPERATING COSTS.—The term 'eligible operating costs' means costs relating to—

''(A) evacuation services;

''(B) rescue operations;

''(C) temporary public transportation service; or

''(D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

''(2) EMERGENCY.—The term 'emergency' means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

''(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

''(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

''(b) GENERAL AUTHORITY.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for—

''(1) capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency; and

''(2) eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

''(A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

''(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

''(c) COORDINATION OF EMERGENCY FUNDS.—

''(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available under this chapter.

''(2) NO EFFECT ON OTHER GOVERNMENT ACTIVITY.—The provision of funds under this section shall not affect the ability of any other agency of the Government, including the Federal Emergency Management Agency, or a State agency, a local governmental entity, organization, or person, to provide any other funds otherwise authorized by law.

''(3) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant made or contract or other agreement entered into under this section.

''(d) GRANT REQUIREMENTS.—A grant awarded under this section or under section 5307 or 5311 that is made to address an emergency defined under subsection (a)(2) shall be—

''(1) subject to the terms and conditions the Secretary determines are necessary; and

''(2) made only for expenses that are not reimbursed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

''(e) GOVERNMENT SHARE OF COSTS.—

''(1) CAPITAL PROJECTS AND OPERATING ASSISTANCE.—A grant, contract, or other agreement for a capital project or eligible operating costs under this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

''(2) NON-FEDERAL SHARE.—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

''(3) WAIVER.—The Secretary may waive, in whole or part, the non-Federal share required under—

''(A) paragraph (2); or

''(B) section 5307 or 5311, in the case of a grant made available under section 5307 or 5311, respectively, to address an emergency.''.

(b) MEMORANDUM OF AGREEMENT.—

(1) PURPOSES.—The purposes of this subsection are—

(A) to improve coordination between the Department of Transportation and the Department of Homeland Security; and

(B) to expedite the provision of Federal assistance for public transportation systems for activities relating to a major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (referred to in this subsection as a ''major disaster or emergency'').

(2) AGREEMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall enter into a memorandum of agreement to coordinate the roles and responsibilities of the Department of Transportation and the Department of Homeland Security in providing assistance for public transportation, including the provision of public transportation services and the repair and restoration of public transportation systems in areas for which the President has declared a major disaster or emergency.

(3) CONTENTS OF AGREEMENT.—The memorandum of agreement required under paragraph (2) shall—

(A) provide for improved coordination and expeditious use of public transportation, as appropriate, in response to and recovery from a major disaster or emergency;

(B) establish procedures to address—

(i) issues that have contributed to delays in the reimbursement of eligible transportation-related expenses relating to a major disaster or emergency;

(ii) any challenges identified in the review under paragraph (4); and

(iii) the coordination of assistance for public transportation provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5306 of title 49, United States Code, as amended by this Act, as appropriate; and

(C) provide for the development and distribution of clear guidelines for State, local, and tribal governments, including public transportation systems, relating to—

(i) assistance available for public transportation systems for activities relating to a major disaster or emergency—

(I) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

(II) under section 5306 of title 49, United States Code, as amended by this Act; and

(III) from other sources, including other Federal agencies; and

(ii) reimbursement procedures that speed the process of—

(I) applying for assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5306 of title 49, United States Code, as amended by this Act; and

(II) distributing assistance for public transportation systems under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and section 5306 of title 49, United States Code, as amended by this Act.

(4) AFTER ACTION REVIEW.—Before entering into a memorandum of agreement under paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security (acting through the Administrator of the Federal Emergency Management Agency), in consultation with State, local, and tribal governments (including public transportation systems) that have experienced a major disaster or emergency, shall review after action reports relating to major disasters, emergencies, and exercises, to identify areas where coordination between the Department of Transportation and the Department of Homeland Security and the provision of public transportation services should be improved.

(5) FACTORS FOR DECLARATIONS OF MAJOR DISASTERS AND EMERGENCIES.—The Administrator of the Federal Emergency Management Agency shall make available to State, local, and tribal governments, including public transportation systems, a description of the factors that the President considers in declaring a major disaster or emergency, including any pre-disaster emergency declaration policies.

(6) BRIEFINGS.—

(A) INITIAL BRIEFING.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the memorandum of agreement required under paragraph (2).

(B) QUARTERLY BRIEFINGS.—Each quarter of the 1-year period beginning on the date on which the Secretary of Transportation and the Secretary of Homeland Security enter into the memorandum of agreement required under paragraph (2), the Secretary of Transportation and the Secretary of Homeland Security shall jointly brief the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of the memorandum of agreement.

SEC. 20008. URBANIZED AREA FORMULA GRANTS.

Section 5307 of title 49, United States Code, is amended to read as follows:

''§ 5307. Urbanized area formula grants

''(a) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary may make grants under this section for—

''(A) capital projects;

''(B) planning; and

''(C) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census.

''(2) SPECIAL RULE.—The Secretary may make grants under this section to finance the operating cost of equipment and facilities for use in public transportation, excluding rail fixed guideway, in an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

''(A) for public transportation systems that operate 75 or fewer buses during peak service hours, in an amount not to exceed 50 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours; and

''(B) for public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses during peak service hours, in an amount not to exceed 25 percent of the share of the apportionment which is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

''(3) TEMPORARY AND TARGETED ASSISTANCE.—

''(A) ELIGIBILITY.—The Secretary may make a grant under this section to finance the operating cost of equipment and facilities to a recipient for use in public transportation in an area that the Secretary determines has—

''(i) a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census; and

''(ii) a 3-month unemployment rate, as reported by the Bureau of Labor Statistics, that is—

''(I) greater than 7 percent; and

''(II) at least 2 percentage points greater than the lowest 3-month unemployment rate for the area during the 5-year period preceding the date of the determination.

''(B) AWARD OF GRANT.—

''(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the Secretary may make a grant under this section for not more than 2 consecutive fiscal years.

''(ii) ADDITIONAL YEAR.—If, at the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, the Secretary determines that the 3-month unemployment rate for the area is at least 2 percentage points greater than the unemployment rate for the area at the time the Secretary made the determination under subparagraph (A), the Secretary may make a grant to a recipient in the area for 1 additional consecutive fiscal year.

''(iii) EXCLUSION PERIOD.—Beginning on the last day of the last consecutive fiscal year for which a recipient receives a grant under this paragraph, the Secretary may not make a subsequent grant under this paragraph to the recipient for a number of fiscal years equal to the number of consecutive fiscal years in which the recipient received a grant under this paragraph.

''(C) LIMITATION.—

''(i) FIRST FISCAL YEAR.—For the first fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 25 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

''(ii) SECOND AND THIRD FISCAL YEARS.—For the second and third fiscal years following the date on which the Secretary makes a determination under subparagraph (A) with respect to an area, not more than 20 percent of the amount apportioned to a designated recipient under section 5336 for the fiscal year shall be available for operating assistance for the area.

''(D) PERIOD OF AVAILABILITY FOR OPERATING ASSISTANCE.—Operating assistance awarded under this paragraph shall be available for expenditure to a recipient in an area until the end of the second fiscal year following the date on which the Secretary makes a determination under subparagraph (A) with respect to the area, after which time any unexpended funds shall be available to the recipient for other eligible activities under this section.

''(E) CERTIFICATION.—The Secretary may make a grant for operating assistance under this paragraph for a fiscal year only if the recipient certifies that—

''(i) the recipient will maintain public transportation service levels at or above the current service level, which shall be demonstrated by providing an equal or greater number of vehicle hours of service in the fiscal year than the number of vehicle hours of service provided in the preceding fiscal year;

''(ii) any non-Federal entity that provides funding to the recipient, including a State or local governmental entity, will maintain the tax rate or rate of allocations dedicated to public transportation at or above the rate for the preceding fiscal year;

''(iii) the recipient has allocated the maximum amount of funding under this section for preventive maintenance costs eligible as a capital expense necessary to maintain the level and quality of service provided in the preceding fiscal year; and

''(iv) the recipient will not use funding under this section for new capital assets except as necessary for the existing system to maintain or achieve a state of good repair, assure safety, or replace obsolete technology.

''(b) ACCESS TO JOBS PROJECTS.—

''(1) IN GENERAL.—A designated recipient shall expend not less than 3 percent of the amount apportioned to the designated recipient under section 5336 or an amount equal to the amount apportioned to the designated recipient in fiscal year 2011 to carry out section 5316 (as in effect for fiscal year 2011), whichever is less, to carry out a program to develop and maintain job access projects. Eligible projects may include—

''(A) a project relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

''(i) a public transportation project to finance planning, capital, and operating costs of providing access to jobs under this chapter;

''(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with non-traditional work schedules;

''(iii) promoting the use of public transportation vouchers for welfare recipients and eligible low-income individuals; and

''(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

''(B) a transportation project designed to support the use of public transportation including—

''(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

''(ii) guaranteed ride home programs;

''(iii) bicycle storage facilities; and

''(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

''(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

''(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

''(B) the plan was developed and approved through a process that included individuals with low incomes, representatives of public, private, and nonprofit transportation and human services providers, and participation by the public;

''(C) services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies to the maximum extent feasible; and

''(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

''(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

''(A) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under this subsection may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this subsection.

''(B) APPLICATION.—If the recipient elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

''(c) PROGRAM OF PROJECTS.—Each recipient of a grant shall—

''(1) make available to the public information on amounts available to the recipient under this section;

''(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

''(3) publish a proposed program of projects in a way that affected individuals, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

''(4) provide an opportunity for a public hearing in which to obtain the views of individuals on the proposed program of projects;

''(5) ensure that the proposed program of projects provides for the coordination of public transportation services assisted under section 5336 of this title with transportation services assisted from other United States Government sources;

''(6) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

''(7) make the final program of projects available to the public.

''(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

''(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a Governor under this section)—

''(A) has or will have the legal, financial, and technical capacity to carry out the program, including safety and security aspects of the program;

''(B) has or will have satisfactory continuing control over the use of equipment and facilities;

''(C) will maintain equipment and facilities;

''(D) will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—

''(i) senior;

''(ii) individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and

''(iii) individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq. and 1395 et seq.);

''(E) in carrying out a procurement under this section, will comply with sections 5323 and 5325;

''(F) has complied with subsection (c) of this section;

''(G) has available and will provide the required amounts as provided by subsection (e) of this section;

''(H) will comply with sections 5303 and 5304;

''(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;

''(J)(i) will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under section 5336 of this title; or

''(ii) has decided that the expenditure for security projects is not necessary;

''(K) in the case of a recipient for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census—

''(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for associated transit improvements, as defined in section 5302; and

''(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and

''(L) will comply with section 5329(d); and

''(2) the Secretary accepts the certification.

''(e) GOVERNMENT SHARE OF COSTS.—

''(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

''(2) OPERATING EXPENSES.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.

''(3) REMAINING COSTS.—Subject to paragraph (4), the remainder of the net project costs shall be provided—

''(A) in cash from non-Government sources other than revenues from providing public transportation services;

''(B) from revenues from the sale of advertising and concessions;

''(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;

''(D) from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

''(E) from amounts received under a service agreement with a State or local social service agency or private social service organization.

''(4) USE OF CERTAIN FUNDS.—For purposes of subparagraphs (D) and (E) of paragraph (3), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

''(f) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) PAYMENT.—The Secretary may pay the Government share of the net project cost to a State or local governmental authority that carries out any part of a project eligible under subparagraph (A) or (B) of subsection (a)(1) without the aid of amounts of the Government and according to all applicable procedures and requirements if—

''(A) the recipient applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out any part of the project, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

''(2) APPROVAL OF APPLICATION.—The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

''(A) the recipient's expected apportionment under section 5336 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

''(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

''(3) FINANCING COSTS.—

''(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part.

''(B) LIMITATION ON THE AMOUNT OF INTEREST.—The amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably available for the project at the time of borrowing.

''(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(g) REVIEWS, AUDITS, AND EVALUATIONS.—

''(1) ANNUAL REVIEW.—

''(A) IN GENERAL.—At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

''(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

''(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

''(B) AUDITING PROCEDURES.—An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

''(2) TRIENNIAL REVIEW.—At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under sections 5303, 5304, and 5305 of this title. To the extent practicable, the Secretary shall coordinate such reviews with any related State or local reviews.

''(3) ACTIONS RESULTING FROM REVIEW, AUDIT, OR EVALUATION.—The Secretary may take appropriate action consistent with a review, audit, and evaluation under this subsection, including making an appropriate adjustment in the amount of a grant or withdrawing the grant.

''(h) TREATMENT.—For purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.

''(i) PASSENGER FERRY GRANT PROGRAM.—

''(1) IN GENERAL.—The Secretary may make grants under this subsection to recipients for passenger ferry projects that are eligible for a grant under subsection (a).

''(2) GRANT REQUIREMENTS.—Except as otherwise provided in this subsection, a grant under this subsection shall be subject to the same terms and conditions as a grant under subsection (a).

''(3) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

''(4) GEOGRAPHICALLY CONSTRAINED AREAS.—Of the amounts made available to carry out this subsection, $10,000,000 shall be for capital grants relating to passenger ferries in areas with limited or no access to public transportation as a result of geographical constraints.''.

SEC. 20009. CLEAN FUEL GRANT PROGRAM.

Section 5308 of title 49, United States Code, is amended to read as follows:

''§ 5308. Clean fuel grant program

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

''(1) CLEAN FUEL BUS.—The term 'clean fuel bus' means a bus that is a clean fuel vehicle.

''(2) CLEAN FUEL VEHICLE.—The term 'clean fuel vehicle' means a passenger vehicle used to provide public transportation that the Administrator of the Environmental Protection Agency has certified sufficiently reduces energy consumption or reduces harmful emissions, including direct carbon emissions, when compared to a comparable standard vehicle.

''(3) DIRECT CARBON EMISSIONS.—The term 'direct carbon emissions' means the quantity of direct greenhouse gas emissions from a vehicle, as determined by the Administrator of the Environmental Protection Agency.

''(4) ELIGIBLE AREA.—The term 'eligible area' means an area that is—

''(A) designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

''(B) a maintenance area, as defined in section 5303, for ozone or carbon monoxide.

''(5) ELIGIBLE PROJECT.—The term 'eligible project' means a project or program of projects in an eligible area for—

''(A) acquiring or leasing clean fuel vehicles;

''(B) constructing or leasing facilities and related equipment for clean fuel vehicles;

''(C) constructing new public transportation facilities to accommodate clean fuel vehicles; or

''(D) rehabilitating or improving existing public transportation facilities to accommodate clean fuel vehicles.

''(6) RECIPIENT.—The term 'recipient' means—

''(A) for an eligible area that is an urbanized area with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, the State in which the eligible area is located; and

''(B) for an eligible area not described in subparagraph (A), the designated recipient for the eligible area.

''(b) AUTHORITY.—The Secretary may make grants to recipients to finance eligible projects under this section.

''(c) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

''(2) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(j) applies to projects carried out under this section, unless the grant recipient requests a lower grant percentage.

''(d) MINIMUM AMOUNTS.—Of amounts made available by or appropriated under section 5338(a)(2)(D) in each fiscal year to carry out this section—

''(1) not less than 65 percent shall be made available to fund eligible projects relating to clean fuel buses; and

''(2) not less than 10 percent shall be made available for eligible projects relating to facilities and related equipment for clean fuel buses.

''(e) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

''(f) AVAILABILITY OF FUNDS.—Any amounts made available or appropriated to carry out this section—

''(1) shall remain available to an eligible project for 2 years after the fiscal year for which the amount is made available or appropriated; and

''(2) that remain unobligated at the end of the period described in paragraph (1) shall be added to the amount made available to an eligible project in the following fiscal year.''.

SEC. 20010. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS.

(a) IN GENERAL.—Section 5309 of title 49, United States Code, is amended to read as follows:

''§ 5309. Fixed guideway capital investment grants

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

''(1) APPLICANT.—The term 'applicant' means a State or local governmental authority that applies for a grant under this section.

''(2) BUS RAPID TRANSIT PROJECT.—The term 'bus rapid transit project' means a single route bus capital project—

''(A) a majority of which operates in a separated right-of-way dedicated for public transportation use during peak periods;

''(B) that represents a substantial investment in a single route in a defined corridor or subarea; and

''(C) that includes features that emulate the services provided by rail fixed guideway public transportation systems, including—

''(i) defined stations;

''(ii) traffic signal priority for public transportation vehicles;

''(iii) short headway bidirectional services for a substantial part of weekdays and weekend days; and

''(iv) any other features the Secretary may determine are necessary to produce high-quality public transportation services that emulate the services provided by rail fixed guideway public transportation systems.

''(3) CORE CAPACITY IMPROVEMENT PROJECT.—The term 'core capacity improvement project' means a substantial corridor-based capital investment in an existing fixed guideway system that adds capacity and functionality.

''(4) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term 'new fixed guideway capital project' means—

''(A) a new fixed guideway project that is a minimum operable segment or extension to an existing fixed guideway system; or

''(B) a bus rapid transit project that is a minimum operable segment or an extension to an existing bus rapid transit system.

''(5) PROGRAM OF INTERRELATED PROJECTS.—The term 'program of interrelated projects' means the simultaneous development of—

''(A) 2 or more new fixed guideway capital projects or core capacity improvement projects; or

''(B) 1 or more new fixed guideway capital projects and 1 or more core capacity improvement projects.

''(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to State and local governmental authorities to assist in financing—

''(1) new fixed guideway capital projects, including the acquisition of real property, the initial acquisition of rolling stock for the system, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of project development or engineering; and

''(2) core capacity improvement projects, including the acquisition of real property, the acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms, acquisition of rolling stock, construction of infill stations, and such other capacity improvement projects as the Secretary determines are appropriate.

''(c) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary may make a grant under this section for new fixed guideway capital projects or core capacity improvement projects, if the Secretary determines that—

''(A) the project is part of an approved transportation plan required under sections 5303 and 5304; and

''(B) the applicant has, or will have—

''(i) the legal, financial, and technical capacity to carry out the project, including the safety and security aspects of the project;

''(ii) satisfactory continuing control over the use of the equipment or facilities; and

''(iii) the technical and financial capacity to maintain new and existing equipment and facilities.

''(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

''(3) TECHNICAL CAPACITY.—The Secretary shall use an expedited technical capacity review process for applicants that have recently and successfully completed at least 1 new bus rapid transit project, new fixed guideway capital project, or core capacity improvement project, if—

''(A) the applicant achieved budget, cost, and ridership outcomes for the project that are consistent with or better than projections; and

''(B) the applicant demonstrates that the applicant continues to have the staff expertise and other resources necessary to implement a new project.

''(4) RECIPIENT REQUIREMENTS.—A recipient of a grant awarded under this section shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for purposes of this section.

''(d) NEW FIXED GUIDEWAY GRANTS.—

''(1) PROJECT DEVELOPMENT PHASE.—

''(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A new fixed guideway capital project shall enter into the project development phase when—

''(i) the applicant—

''(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

''(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

''(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including, when necessary, a detailed description of any information deemed insufficient.

''(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification, policies and land use patterns that promote public transportation, and local financial commitment under this subsection.

''(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

''(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

''(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

''(I) a reasonable plan for completing the activities required under this paragraph; and

''(II) an estimated time period within which the applicant will complete such activities.

''(2) ENGINEERING PHASE.—

''(A) IN GENERAL.—A new fixed guideway capital project may advance to the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

''(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(ii) is adopted into the metropolitan transportation plan required under section 5303;

''(iii) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider;

''(iv) is supported by policies and land use patterns that promote public transportation, including plans for future land use and rezoning, and economic development around public transportation stations; and

''(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

''(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iii), the Secretary shall evaluate, analyze, and consider—

''(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient; and

''(ii) population density and current public transportation ridership in the transportation corridor.

''(e) CORE CAPACITY IMPROVEMENT PROJECTS.—

''(1) PROJECT DEVELOPMENT PHASE.—

''(A) ENTRANCE INTO PROJECT DEVELOPMENT PHASE.—A core capacity improvement project shall be deemed to have entered into the project development phase if—

''(i) the applicant—

''(I) submits a letter to the Secretary describing the project and requesting entry into the project development phase; and

''(II) initiates activities required to be carried out under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the project; and

''(ii) the Secretary responds in writing to the applicant within 45 days whether the information provided is sufficient to enter into the project development phase, including when necessary a detailed description of any information deemed insufficient.

''(B) ACTIVITIES DURING PROJECT DEVELOPMENT PHASE.—Concurrent with the analysis required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), each applicant shall develop sufficient information to enable the Secretary to make findings of project justification and local financial commitment under this subsection.

''(C) COMPLETION OF PROJECT DEVELOPMENT ACTIVITIES REQUIRED.—

''(i) IN GENERAL.—Not later than 2 years after the date on which a project enters into the project development phase, the applicant shall complete the activities required to obtain a project rating under subsection (g)(2) and submit completed documentation to the Secretary.

''(ii) EXTENSION OF TIME.—Upon the request of an applicant, the Secretary may extend the time period under clause (i), if the applicant submits to the Secretary—

''(I) a reasonable plan for completing the activities required under this paragraph; and

''(II) an estimated time period within which the applicant will complete such activities.

''(2) ENGINEERING PHASE.—

''(A) IN GENERAL.—A core capacity improvement project may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that the project—

''(i) is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

''(ii) is adopted into the metropolitan transportation plan required under section 5303;

''(iii) is in a corridor that is—

''(I) at or over capacity; or

''(II) projected to be at or over capacity within the next 5 years;

''(iv) is justified based on a comprehensive review of the project's mobility improvements, environmental benefits, and cost-effectiveness, as measured by cost per rider; and

''(v) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources), as required under subsection (f).

''(B) DETERMINATION THAT PROJECT IS JUSTIFIED.—In making a determination under subparagraph (A)(iv), the Secretary shall evaluate, analyze, and consider—

''(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

''(ii) whether the project will adequately address the capacity concerns in a corridor;

''(iii) whether the project will improve interconnectivity among existing systems; and

''(iv) whether the project will improve environmental outcomes.

''(f) FINANCING SOURCES.—

''(1) REQUIREMENTS.—In determining whether a project is supported by an acceptable degree of local financial commitment and shows evidence of stable and dependable financing sources for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall require that—

''(A) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases or funding shortfalls;

''(B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

''(C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the project.

''(2) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of local financing for purposes of subsection (d)(2)(A)(v) or (e)(2)(A)(v), the Secretary shall consider—

''(A) the reliability of the forecasting methods used to estimate costs and revenues made by the recipient and the contractors to the recipient;

''(B) existing grant commitments;

''(C) the degree to which financing sources are dedicated to the proposed purposes;

''(D) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

''(E) the extent to which the project has a local financial commitment that exceeds the required non-Government share of the cost of the project.

''(g) PROJECT ADVANCEMENT AND RATINGS.—

''(1) PROJECT ADVANCEMENT.—A new fixed guideway capital project or core capacity improvement project proposed to be carried out using a grant under this section may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that—

''(A) the project meets the applicable requirements under this section; and

''(B) there is a reasonable likelihood that the project will continue to meet the requirements under this section.

''(2) RATINGS.—

''(A) OVERALL RATING.—In making a determination under paragraph (1), the Secretary shall evaluate and rate a project as a whole on a 5-point scale (high, medium-high, medium, medium-low, or low) based on—

''(i) in the case of a new fixed guideway capital project, the project justification criteria under subsection (d)(2)(A)(iii), the policies and land use patterns that support public transportation, and the degree of local financial commitment; and

''(ii) in the case of a core capacity improvement project, the capacity needs of the corridor, the project justification criteria under subsection (e)(2)(A)(iv), and the degree of local financial commitment.

''(B) INDIVIDUAL RATINGS FOR EACH CRITERION.—In rating a project under this paragraph, the Secretary shall—

''(i) provide, in addition to the overall project rating under subparagraph (A), individual ratings for each of the criteria established under subsection (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable; and

''(ii) give comparable, but not necessarily equal, numerical weight to each of the criteria established under subsections (d)(2)(A)(iii) or (e)(2)(A)(iv), as applicable, in calculating the overall project rating under clause (i).

''(C) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single project justification criterion meet or exceed a 'medium' rating in order to advance the project from one phase to another.

''(3) WARRANTS.—The Secretary shall, to the maximum extent practicable, develop and use special warrants for making a project justification determination under subsection (d)(2) or (e)(2), as applicable, for a project proposed to be funded using a grant under this section, if—

''(A) the share of the cost of the project to be provided under this section does not exceed—

''(i) $100,000,000; or

''(ii) 50 percent of the total cost of the project;

''(B) the applicant requests the use of the warrants;

''(C) the applicant certifies that its existing public transportation system is in a state of good repair; and

''(D) the applicant meets any other requirements that the Secretary considers appropriate to carry out this subsection.

''(4) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—In order to expedite a project under this subsection, the Secretary shall, to the maximum extent practicable, issue letters of intent and enter into early systems work agreements upon issuance of a record of decision for projects that receive an overall project rating of medium or better.

''(5) POLICY GUIDANCE.—The Secretary shall issue policy guidance regarding the review and evaluation process and criteria—

''(A) not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2012; and

''(B) each time the Secretary makes significant changes to the process and criteria, but not less frequently than once every 2 years.

''(6) RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue rules establishing an evaluation and rating process for—

''(A) new fixed guideway capital projects that is based on the results of project justification, policies and land use patterns that promote public transportation, and local financial commitment, as required under this subsection; and

''(B) core capacity improvement projects that is based on the results of the capacity needs of the corridor, project justification, and local financial commitment.

''(7) APPLICABILITY.—This subsection shall not apply to a project for which the Secretary issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction agreement before the date of enactment of the Federal Public Transportation Act of 2012.

''(h) PROGRAMS OF INTERRELATED PROJECTS.—

''(1) PROJECT DEVELOPMENT PHASE.—A federally funded project in a program of interrelated projects shall advance through project development as provided in subsection (d) or (e), as applicable.

''(2) ENGINEERING PHASE.—A federally funded project in a program of interrelated projects may advance into the engineering phase upon completion of activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as demonstrated by a record of decision with respect to the project, a finding that the project has no significant impact, or a determination that the project is categorically excluded, only if the Secretary determines that—

''(A) the project is selected as the locally preferred alternative at the completion of the process required under the National Environmental Policy Act of 1969;

''(B) the project is adopted into the metropolitan transportation plan required under section 5303;

''(C) the program of interrelated projects involves projects that have a logical connectivity to one another;

''(D) the program of interrelated projects, when evaluated as a whole, meets the requirements of subsection (d)(2) or (e)(2), as applicable;

''(E) the program of interrelated projects is supported by a program implementation plan demonstrating that construction will begin on each of the projects in the program of interrelated projects within a reasonable time frame; and

''(F) the program of interrelated projects is supported by an acceptable degree of local financial commitment, as described in subsection (f).

''(3) PROJECT ADVANCEMENT AND RATINGS.—

''(A) PROJECT ADVANCEMENT.—A project receiving a grant under this section that is part of a program of interrelated projects may not advance from the project development phase to the engineering phase, or from the engineering phase to the construction phase, unless the Secretary determines that the program of interrelated projects meets the applicable requirements of this section and there is a reasonable likelihood that the program will continue to meet such requirements.

''(B) RATINGS.—

''(i) OVERALL RATING.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate a program of interrelated projects on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the criteria described in paragraph (2).

''(ii) INDIVIDUAL RATING FOR EACH CRITERION.—In rating a program of interrelated projects, the Secretary shall provide, in addition to the overall program rating, individual ratings for each of the criteria described in paragraph (2) and shall give comparable, but not necessarily equal, numerical weight to each such criterion in calculating the overall program rating.

''(iii) MEDIUM RATING NOT REQUIRED.—The Secretary shall not require that any single criterion described in paragraph (2) meet or exceed a 'medium' rating in order to advance the program of interrelated projects from one phase to another.

''(4) ANNUAL REVIEW.—

''(A) REVIEW REQUIRED.—The Secretary shall annually review the program implementation plan required under paragraph (2)(E) to determine whether the program of interrelated projects is adhering to its schedule.

''(B) EXTENSION OF TIME.—If a program of interrelated projects is not adhering to its schedule, the Secretary may, upon the request of the applicant, grant an extension of time if the applicant submits a reasonable plan that includes—

''(i) evidence of continued adequate funding; and

''(ii) an estimated time frame for completing the program of interrelated projects.

''(C) SATISFACTORY PROGRESS REQUIRED.—If the Secretary determines that a program of interrelated projects is not making satisfactory progress, no Federal funds shall be provided for a project within the program of interrelated projects.

''(5) FAILURE TO CARRY OUT PROGRAM OF INTERRELATED PROJECTS.—

''(A) REPAYMENT REQUIRED.—If an applicant does not carry out the program of interrelated projects within a reasonable time, for reasons within the control of the applicant, the applicant shall repay all Federal funds provided for the program, and any reasonable interest and penalty charges that the Secretary may establish.

''(B) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

''(6) NON-FEDERAL FUNDS.—Any non-Federal funds committed to a project in a program of interrelated projects may be used to meet a non-Government share requirement for any other project in the program of interrelated projects, if the Government share of the cost of each project within the program of interrelated projects does not exceed 80 percent.

''(7) PRIORITY.—In making grants under this section, the Secretary may give priority to programs of interrelated projects for which the non-Government share of the cost of the projects included in the programs of interrelated projects exceeds the non-Government share required under subsection (k).

''(8) NON-GOVERNMENT PROJECTS.—Including a project not financed by the Government in a program of interrelated projects does not impose Government requirements that would not otherwise apply to the project.

''(i) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) shall not apply to projects for which the Secretary has issued a letter of intent, entered into a full funding grant agreement, or entered into a project construction grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

''(j) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

''(1) LETTERS OF INTENT.—

''(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new fixed guideway capital project or core capacity improvement project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for a capital project under this section, the amount shall be sufficient to complete at least an operable segment.

''(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

''(2) FULL FUNDING GRANT AGREEMENTS.—

''(A) IN GENERAL.—A new fixed guideway capital project or core capacity improvement project shall be carried out through a full funding grant agreement.

''(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under subsection (d), (e), or (h), as applicable, with each grantee receiving assistance for a new fixed guideway capital project or core capacity improvement project that has been rated as high, medium-high, or medium, in accordance with subsection (g)(2)(A) or (h)(3)(B), as applicable.

''(C) TERMS.—A full funding grant agreement shall—

''(i) establish the terms of participation by the Government in a new fixed guideway capital project or core capacity improvement project;

''(ii) establish the maximum amount of Federal financial assistance for the project;

''(iii) include the period of time for completing the project, even if that period extends beyond the period of an authorization; and

''(iv) make timely and efficient management of the project easier according to the law of the United States.

''(D) SPECIAL FINANCIAL RULES.—

''(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

''(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

''(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a new fixed guideway capital project shall be sufficient to complete at least an operable segment.

''(E) BEFORE AND AFTER STUDY.—

''(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

''(I) describes and analyzes the impacts of the new fixed guideway capital project or core capacity improvement project on public transportation services and public transportation ridership;

''(II) evaluates the consistency of predicted and actual project characteristics and performance; and

''(III) identifies reasons for differences between predicted and actual outcomes.

''(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

''(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project or core capacity improvement project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

''(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

''(aa) collection of data on the current public transportation system regarding public transportation service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

''(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

''(cc) collection of data on the public transportation system 2 years after the opening of a new fixed guideway capital project or core capacity improvement project, including analogous information on public transportation service levels and ridership patterns and information on the as-built scope, capital, and financing costs of the project; and

''(dd) analysis of the consistency of predicted project characteristics with actual outcomes.

''(F) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required under subparagraph (E)(ii), before the beginning of construction of the proposed new fixed guideway capital project or core capacity improvement project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

''(3) EARLY SYSTEMS WORK AGREEMENTS.—

''(A) CONDITIONS.—The Secretary may enter into an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

''(i) a full funding grant agreement for the project will be made; and

''(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

''(B) CONTENTS.—

''(i) IN GENERAL.—An early systems work agreement under this paragraph obligates budget authority available under this chapter and title 23 and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

''(ii) CONTINGENT COMMITMENT.—An early systems work agreement may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

''(iii) PERIOD COVERED.—An early systems work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

''(iv) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the early systems work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(v) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Federal grant funds awarded for the project from all Federal funding sources, for all project activities, facilities, and equipment, plus reasonable interest and penalty charges allowable by law or established by the Secretary in the early systems work agreement.

''(vi) CREDITING OF FUNDS RECEIVED.—Any funds received by the Government under this paragraph, other than interest and penalty charges, shall be credited to the appropriation account from which the funds were originally derived.

''(4) LIMITATION ON AMOUNTS.—

''(A) IN GENERAL.—The Secretary may enter into full funding grant agreements under this subsection for new fixed guideway capital projects and core capacity improvement projects that contain contingent commitments to incur obligations in such amounts as the Secretary determines are appropriate.

''(B) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

''(5) NOTIFICATION TO CONGRESS.—At least 30 days before issuing a letter of intent, entering into a full funding grant agreement, or entering into an early systems work agreement under this section, the Secretary shall notify, in writing, the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(k) GOVERNMENT SHARE OF NET CAPITAL PROJECT COST.—

''(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost. A grant for the project shall not exceed 80 percent of the net capital project cost.

''(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net capital project cost of a new fixed guideway capital project or core capacity improvement project evaluated under subsection (d), (e), or (h) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

''(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

''(A) the Secretary determines that the net capital project cost of the project is not more than 10 percent higher than the net capital project cost estimated at the time the project was approved for advancement into the engineering phase; and

''(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into the engineering phase.

''(4) REMAINDER OF NET CAPITAL PROJECT COST.—The remainder of the net capital project cost shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

''(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

''(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts provided by the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

''(7) LIMITATION ON APPLICABILITY.—This subsection shall not apply to projects for which the Secretary entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2012.

''(l) UNDERTAKING PROJECTS IN ADVANCE.—

''(1) IN GENERAL.—The Secretary may pay the Government share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

''(A) the State or local governmental authority applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before the State or local governmental authority carries out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

''(2) FINANCING COSTS.—

''(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

''(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

''(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

''(m) AVAILABILITY OF AMOUNTS.—

''(1) IN GENERAL.—An amount made available or appropriated for a new fixed guideway capital project or core capacity improvement project shall remain available to that project for 5 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any amounts that are unobligated to the project at the end of the 5-fiscal-year period may be used by the Secretary for any purpose under this section.

''(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

''(n) REPORTS ON NEW FIXED GUIDEWAY AND CORE CAPACITY IMPROVEMENT PROJECTS.—

''(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

''(A) a proposal of allocations of amounts to be available to finance grants for projects under this section among applicants for these amounts;

''(B) evaluations and ratings, as required under subsections (d), (e), and (h), for each such project that is in project development, engineering, or has received a full funding grant agreement; and

''(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

''(2) REPORTS ON BEFORE AND AFTER STUDIES.—Not later than the first Monday in August of each year, the Secretary shall submit to the committees described in paragraph (1) a report containing a summary of the results of any studies conducted under subsection (j)(2)(E).

''(3) ANNUAL GAO REVIEW.—The Comptroller General of the United States shall—

''(A) conduct an annual review of—

''(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects and core capacity improvement projects; and

''(ii) the Secretary's implementation of such processes and procedures; and

''(B) report to Congress on the results of such review by May 31 of each year.''.

(b) PILOT PROGRAM FOR EXPEDITED PROJECT DELIVERY.—

(1) DEFINITIONS.—In this subsection the following definitions shall apply:

(A) ELIGIBLE PROJECT.—The term ''eligible project'' means a new fixed guideway capital project or a core capacity improvement project, as those terms are defined in section

5309 of title 49, United States Code, as amended by this section, that has not entered into a full funding grant agreement with the Federal Transit Administration before the date of enactment of the Federal Public Transportation Act of 2012.

(B) PROGRAM.—The term ''program'' means the pilot program for expedited project delivery established under this subsection.

(C) RECIPIENT.—The term ''recipient'' means a recipient of funding under chapter 53 of title 49, United States Code.

(D) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(2) ESTABLISHMENT.—The Secretary shall establish and implement a pilot program to demonstrate whether innovative project development and delivery methods or innovative financing arrangements can expedite project delivery for certain meritorious new fixed guideway capital projects and core capacity improvement projects.

(3) LIMITATION ON NUMBER OF PROJECTS.—The Secretary shall select 3 eligible projects to participate in the program, of which—

(A) at least 1 shall be an eligible project requesting more than $100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code; and

(B) at least 1 shall be an eligible project requesting less than $100,000,000 in Federal financial assistance under section 5309 of title 49, United States Code.

(4) GOVERNMENT SHARE.—The Government share of the total cost of an eligible project that participates in the program may not exceed 50 percent.

(5) ELIGIBILITY.—A recipient that desires to participate in the program shall submit to the Secretary an application that contains, at a minimum—

(A) identification of an eligible project;

(B) a schedule and finance plan for the construction and operation of the eligible project;

(C) an analysis of the efficiencies of the proposed project development and delivery methods or innovative financing arrangement for the eligible project; and

(D) a certification that the recipient's existing public transportation system is in a state of good repair.

(6) SELECTION CRITERIA.—The Secretary may award a full funding grant agreement under this subsection if the Secretary determines that—

(A) the recipient has completed planning and the activities required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the recipient has the necessary legal, financial, and technical capacity to carry out the eligible project.

(7) BEFORE AND AFTER STUDY AND REPORT.—

(A) STUDY REQUIRED.—A full funding grant agreement under this paragraph shall require a recipient to conduct a study that—

(i) describes and analyzes the impacts of the eligible project on public transportation services and public transportation ridership;

(ii) describes and analyzes the consistency of predicted and actual benefits and costs of the innovative project development and delivery methods or innovative financing for the eligible project; and

(iii) identifies reasons for any differences between predicted and actual outcomes for the eligible project.

(B) SUBMISSION OF REPORT.—Not later than 9 months after an eligible project selected to participate in the program begins revenue operations, the recipient shall submit to the Secretary a report on the results of the study under subparagraph (A).

SEC. 20011. FORMULA GRANTS FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES.

Section 5310 of title 49, United States Code, is amended to read as follows:

''§ 5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities

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

''(1) RECIPIENT.—The term 'recipient' means a designated recipient or a State that receives a grant under this section directly.

''(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, nonprofit organization, or operator of public transportation that receives a grant under this section indirectly through a recipient.

''(b) GENERAL AUTHORITY.—

''(1) GRANTS.—The Secretary may make grants under this section to recipients for—

''(A) public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;

''(B) public transportation projects that exceed the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

''(C) public transportation projects that improve access to fixed route service and decrease reliance by individuals with disabilities on complementary paratransit; and

''(D) alternatives to public transportation that assist seniors and individuals with disabilities with transportation.

''(2) LIMITATIONS FOR CAPITAL PROJECTS.—

''(A) AMOUNT AVAILABLE.—The amount available for capital projects under paragraph (1)(A) shall be not less than 55 percent of the funds apportioned to the recipient under this section.

''(B) ALLOCATION TO SUBRECIPIENTS.—A recipient of a grant under paragraph (1)(A) may allocate the amounts provided under the grant to—

''(i) a nonprofit organization; or

''(ii) a State or local governmental authority that—

''(I) is approved by a State to coordinate services for seniors and individuals with disabilities; or

''(II) certifies that there are no nonprofit organizations readily available in the area to provide the services described in paragraph (1)(A).

''(3) ADMINISTRATIVE EXPENSES.—

''(A) IN GENERAL.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(B) GOVERNMENT SHARE OF COSTS.—The Government share of the costs of administering a program carried out using funds under this section shall be 100 percent.

''(4) ELIGIBLE CAPITAL EXPENSES.—The acquisition of public transportation services is an eligible capital expense under this section.

''(5) COORDINATION.—

''(A) DEPARTMENT OF TRANSPORTATION.—To the maximum extent feasible, the Secretary shall coordinate activities under this section with related activities under other Federal departments and agencies.

''(B) OTHER FEDERAL AGENCIES AND NONPROFIT ORGANIZATIONS.—A State or local governmental authority or nonprofit organization that receives assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

''(i) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

''(ii) participate in the planning for the transportation services described in clause (i).

''(6) PROGRAM OF PROJECTS.—

''(A) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for seniors and individuals with disabilities, if such transportation projects are included in a program of projects.

''(B) SUBMISSION.—A recipient shall annually submit a program of projects to the Secretary.

''(C) ASSURANCE.—The program of projects submitted under subparagraph (B) shall contain an assurance that the program provides for the maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

''(7) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—A public transportation service provider that receives assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

''(c) APPORTIONMENT AND TRANSFERS.—

''(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

''(A) LARGE URBANIZED AREAS.—Sixty percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census, in the ratio that—

''(i) the number of seniors and individuals with disabilities in each such urbanized area; bears to

''(ii) the number of seniors and individuals with disabilities in all such urbanized areas.

''(B) SMALL URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

''(i) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in each State; bears to

''(ii) the number of seniors and individuals with disabilities in urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census, in all States.

''(C) OTHER THAN URBANIZED AREAS.—Twenty percent of the funds shall be apportioned among the States in the ratio that—

''(i) the number of seniors and individuals with disabilities in other than urbanized areas in each State; bears to

''(ii) the number of seniors and individuals with disabilities in other than urbanized areas in all States.

''(2) AREAS SERVED BY PROJECTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B)—

''(i) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more individuals, as determined by the Bureau of the Census;

''(ii) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of fewer than 200,000 individuals, as determined by the Bureau of the Census; and

''(iii) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

''(B) EXCEPTIONS.—A State may use funds apportioned to the State under subparagraph (B) or (C) of paragraph (1)—

''(i) for a project serving an area other than an area specified in subparagraph (A)(ii) or (A)(iii), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the area specified in subparagraph (A)(ii) or (A)(iii); or

''(ii) for a project anywhere in the State, if the State has established a statewide program for meeting the objectives of this section.

''(C) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to subparagraph (B) shall be made available only for eligible projects selected under this section.

''(D) CONSULTATION.—A recipient may transfer an amount under subparagraph (B) only after consulting with responsible local officials, publicly owned operators of public transportation, and nonprofit providers in the area for which the amount was originally apportioned.

''(d) GOVERNMENT SHARE OF COSTS.—

''(1) CAPITAL PROJECTS.—A grant for a capital project under this section shall be in an amount equal to 80 percent of the net capital costs of the project, as determined by the Secretary.

''(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed an amount equal to 50 percent of the net operating costs of the project, as determined by the Secretary.

''(3) REMAINDER OF NET COSTS.—The remainder of the net costs of a project carried out under this section—

''(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

''(B) may be derived from amounts appropriated or otherwise made available—

''(i) to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; or

''(ii) to carry out the Federal lands highways program under section 204 of title 23, United States Code.

''(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B)(i), the prohibition under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) on the use of grant funds for matching requirements shall not apply to Federal or State funds to be used for transportation purposes.

''(e) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—A grant under this section shall be subject to the same requirements as a grant under section 5307, to the extent the Secretary determines appropriate.

''(2) CERTIFICATION REQUIREMENTS.—

''(A) PROJECT SELECTION AND PLAN DEVELOPMENT.—Before receiving a grant under this section, each recipient shall certify that—

''(i) the projects selected by the recipient are included in a locally developed, coordinated public transit-human services transportation plan;

''(ii) the plan described in clause (i) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public; and

''(iii) to the maximum extent feasible, the services funded under this section will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services.

''(B) ALLOCATIONS TO SUBRECIPIENTS.—If a recipient allocates funds received under this section to subrecipients, the recipient shall certify that the funds are allocated on a fair and equitable basis.

''(f) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

''(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) may conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants under this section.

''(2) STATEWIDE SOLICITATIONS.—A recipient of funds apportioned under subparagraph (B) or (C) of subsection (c)(1) may conduct a statewide solicitation for applications for grants under this section.

''(3) APPLICATION.—If the recipient elects to engage in a competitive process, a recipient or subrecipient seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient making the election an application in such form and in accordance with such requirements as the recipient making the election shall establish.

''(g) TRANSFERS OF FACILITIES AND EQUIPMENT.—A recipient may transfer a facility or equipment acquired using a grant under this section to any other recipient eligible to receive assistance under this chapter, if—

''(1) the recipient in possession of the facility or equipment consents to the transfer; and

''(2) the facility or equipment will continue to be used as required under this section.

''(h) PERFORMANCE MEASURES.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures for grants under this section.

''(2) MEASURES.—The performance measures established under paragraph (1) shall require the collection of quantitative and qualitative information, as available, concerning—

''(A) modifications to the geographic coverage of transportation service, the quality of transportation service, or service times that increase the availability of transportation services for seniors and individuals with disabilities;

''(B) ridership;

''(C) accessibility improvements; and

''(D) other measures, as the Secretary determines is appropriate.

''(3) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient that receives Federal financial assistance under this section shall establish performance targets in relation to the performance measures established by the Secretary.

''(4) REPORTS.—Each recipient of Federal financial assistance under this section shall submit to the Secretary an annual report that describes—

''(A) the progress of the recipient toward meeting the performance targets established under paragraph (3) for that fiscal year; and

''(B) the performance targets established by the recipient for the subsequent fiscal year.''.

SEC. 20012. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

Section 5311 of title 49, United States Code, is amended to read as follows:

''§ 5311. Formula grants for other than urbanized areas

''(a) DEFINITIONS.—As used in this section, the following definitions shall apply:

''(1) RECIPIENT.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Government.

''(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.

''(b) GENERAL AUTHORITY.—

''(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

''(A) planning, provided that a grant under this section for planning activities shall be in addition to funding awarded to a State under section 5305 for planning activities that are directed specifically at the needs of other than urbanized areas in the State;

''(B) public transportation capital projects;

''(C) operating costs of equipment and facilities for use in public transportation; and

''(D) the acquisition of public transportation services, including service agreements with private providers of public transportation service.

''(2) STATE PROGRAM.—

''(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

''(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).

''(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

''(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and

''(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.

''(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

''(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.

''(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available under section 5338(a)(2)(F) to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.

''(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.

''(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

''(A) total annual revenue;

''(B) sources of revenue;

''(C) total annual operating costs;

''(D) total annual capital costs;

''(E) fleet size and type, and related facilities;

''(F) vehicle revenue miles; and

''(G) ridership.

''(c) APPORTIONMENTS.—

''(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant

to section 5338(a)(2)(F) to carry out this paragraph, the following amounts shall be apportioned each fiscal year for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

''(A) $10,000,000 shall be distributed on a competitive basis by the Secretary.

''(B) $20,000,000 shall be apportioned as formula grants, as provided in subsection (k).

''(2) APPALACHIAN DEVELOPMENT PUBLIC TRANSPORTATION ASSISTANCE PROGRAM.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'Appalachian region' has the same meaning as in section 14102 of title 40; and

''(ii) the term 'eligible recipient' means a State that participates in a program established under subtitle IV of title 40.

''(B) IN GENERAL.—The Secretary shall carry out a public transportation assistance program in the Appalachian region.

''(C) APPORTIONMENT.—Of amounts made available or appropriated for each fiscal year under section 5338(a)(2)(F) to carry out this paragraph, the Secretary shall apportion funds to eligible recipients for any purpose eligible under this section, based on the guidelines established under section 9.5(b) of the Appalachian Regional Commission Code.

''(D) SPECIAL RULE.—An eligible recipient may use amounts that cannot be used for operating expenses under this paragraph for a highway project if—

''(i) that use is approved, in writing, by the eligible recipient after appropriate notice and an opportunity for comment and appeal are provided to affected public transportation providers; and

''(ii) the eligible recipient, in approving the use of amounts under this subparagraph, determines that the local transit needs are being addressed.

''(3) REMAINING AMOUNTS.—

''(A) IN GENERAL.—The amounts made available or appropriated for each fiscal year pursuant to section 5338(a)(2)(F) that are not apportioned under paragraph (1) or (2) shall be apportioned in accordance with this paragraph.

''(B) APPORTIONMENT BASED ON LAND AREA AND POPULATION IN NONURBANIZED AREAS.—

''(i) IN GENERAL.—83.15 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

''(ii) LAND AREA.—

''(I) IN GENERAL.—Subject to subclause (II), each State shall receive an amount that is equal to 20 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

''(II) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under subclause (I).

''(iii) POPULATION.—Each State shall receive an amount equal to 80 percent of the amount apportioned under clause (i), multiplied by the ratio of the population of areas other than urbanized areas in that State and divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

''(C) APPORTIONMENT BASED ON LAND AREA, VEHICLE REVENUE MILES, AND LOW-INCOME INDIVIDUALS IN NONURBANIZED AREAS.—

''(i) IN GENERAL.—16.85 percent of the amount described in subparagraph (A) shall be apportioned to the States in accordance with this subparagraph.

''(ii) LAND AREA.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

''(iii) VEHICLE REVENUE MILES.—Subject to clause (v), each State shall receive an amount that is equal to 29.68 percent of the amount apportioned under clause (i), multiplied by the ratio of vehicle revenue miles in areas other than urbanized areas in that State and divided by the vehicle revenue miles in all areas other than urbanized areas in the United States, as determined by national transit database reporting.

''(iv) LOW-INCOME INDIVIDUALS.—Each State shall receive an amount that is equal to 40.64 percent of the amount apportioned under clause (i), multiplied by the ratio of low-income individuals in areas other than urbanized areas in that State and divided by the number of low-income individuals in all areas other than urbanized areas in the United States, as shown by the Bureau of the Census.

''(v) MAXIMUM APPORTIONMENT.—No State shall receive—

''(I) more than 5 percent of the amount apportioned under clause (ii); or

''(II) more than 5 percent of the amount apportioned under clause (iii).

''(d) USE FOR LOCAL TRANSPORTATION SERVICE.—A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

''(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to an area other than an urbanized area.

''(f) INTERCITY BUS TRANSPORTATION.—

''(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

''(A) planning and marketing for intercity bus transportation;

''(B) capital grants for intercity bus shelters;

''(C) joint-use stops and depots;

''(D) operating grants through purchase-of-service agreements, user-side subsidies, and demonstration projects; and

''(E) coordinating rural connections between small public transportation operations and intercity bus carriers.

''(2) CERTIFICATION.—A State does not have to comply with paragraph (1) of this subsection in a fiscal year in which the Governor of the State certifies to the Secretary, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately.

''(g) ACCESS TO JOBS PROJECTS.—

''(1) IN GENERAL.—Amounts made available under section 5338(a)(2)(F) may be used to carry out a program to develop and maintain job access projects. Eligible projects may include—

''(A) projects relating to the development and maintenance of public transportation services designed to transport eligible low-income individuals to and from jobs and activities related to their employment, including—

''(i) public transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

''(ii) promoting public transportation by low-income workers, including the use of public transportation by workers with non-traditional work schedules;

''(iii) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

''(iv) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986; and

''(B) transportation projects designed to support the use of public transportation including—

''(i) enhancements to existing public transportation service for workers with non-traditional hours or reverse commutes;

''(ii) guaranteed ride home programs;

''(iii) bicycle storage facilities; and

''(iv) projects that otherwise facilitate the provision of public transportation services to employment opportunities.

''(2) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this subsection shall certify that—

''(A) the projects selected were included in a locally developed, coordinated public transit-human services transportation plan;

''(B) the plan was developed and approved through a process that included participation by low-income individuals, representatives of public, private, and nonprofit transportation and human services providers, and the public;

''(C) to the maximum extent feasible, services funded under this subsection are coordinated with transportation services funded by other Federal departments and agencies; and

''(D) allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

''(3) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

''(A) STATEWIDE SOLICITATIONS.—A State may conduct a statewide solicitation for applications for grants to recipients and subrecipients under this subsection.

''(B) APPLICATION.—If the State elects to engage in a competitive process, recipients and subrecipients seeking to receive a grant from apportioned funds shall submit to the State an application in the form and in accordance with such requirements as the State shall establish.

''(h) GOVERNMENT SHARE OF COSTS.—

''(1) CAPITAL PROJECTS.—

''(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for a capital project or project administrative expenses shall be for 80 percent of the net costs of the project, as determined by the Secretary.

''(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net costs in accordance with the formula under that section.

''(2) OPERATING ASSISTANCE.—

''(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

''(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal

to 62.5 percent of the Government share provided for under paragraph (1)(B).

''(3) REMAINDER.—The remainder of net project costs—

''(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

''(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

''(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

''(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

''(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

''(i) TRANSFER OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

''(j) RELATIONSHIP TO OTHER LAWS.—

''(1) IN GENERAL.—Section 5333(b) applies to this section if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees.

''(2) RULE OF CONSTRUCTION.—This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

''(k) FORMULA GRANTS FOR PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

''(1) APPORTIONMENT.—

''(A) IN GENERAL.—Of the amounts described in subsection (c)(1)(B)—

''(i) 50 percent of the total amount shall be apportioned so that each Indian tribe providing public transportation service shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of vehicle revenue miles provided by an Indian tribe divided by the total number of vehicle revenue miles provided by all Indian tribes, as reported to the Secretary;

''(ii) 25 percent of the total amount shall be apportioned equally among each Indian tribe providing at least 200,000 vehicle revenue miles of public transportation service annually, as reported to the Secretary; and

''(iii) 25 percent of the total amount shall be apportioned among each Indian tribe providing public transportation on tribal lands on which more than 1,000 low-income individuals reside (as determined by the Bureau of the Census) so that each Indian tribe shall receive an amount equal to the total amount apportioned under this clause multiplied by the ratio of the number of low-income individuals residing on an Indian tribe's lands divided by the total number of low-income individuals on tribal lands on which more than 1,000 low-income individuals reside.

''(B) LIMITATION.—No recipient shall receive more than $300,000 of the amounts apportioned under subparagraph (A)(iii) in a fiscal year.

''(C) REMAINING AMOUNTS.—Of the amounts made available under subparagraph (A)(iii), any amounts not apportioned under that subparagraph shall be allocated among Indian tribes receiving less than $300,000 in a fiscal year according to the formula specified in that clause.

''(D) LOW-INCOME INDIVIDUALS.—For purposes of subparagraph (A)(iii), the term 'low-income individual' means an individual whose family income is at or below 100 percent of the poverty line, as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved.

''(2) NON-TRIBAL SERVICE PROVIDERS.—A recipient that is an Indian tribe may use funds apportioned under this subsection to finance public transportation services provided by a non-tribal provider of public transportation that connects residents of tribal lands with surrounding communities, improves access to employment or healthcare, or otherwise addresses the mobility needs of tribal members.''.

SEC. 20013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

Section 5312 of title 49, United States Code, is amended to read as follows:

''§ 5312. Research, development, demonstration, and deployment projects

''(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

''(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements for research, development, demonstration, and deployment projects, and evaluation of research and technology of national significance to public transportation, that the Secretary determines will improve public transportation.

''(2) AGREEMENTS.—In order to carry out paragraph (1), the Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with—

''(A) departments, agencies, and instrumentalities of the Government;

''(B) State and local governmental entities;

''(C) providers of public transportation;

''(D) private or non-profit organizations;

''(E) institutions of higher education; and

''(F) technical and community colleges.

''(3) APPLICATION.—

''(A) IN GENERAL.—To receive a grant, contract, cooperative agreement, or other agreement under this section, an entity described in paragraph (2) shall submit an application to the Secretary.

''(B) FORM AND CONTENTS.—An application under subparagraph (A) shall be in such form and contain such information as the Secretary may require, including—

''(i) a statement of purpose detailing the need being addressed;

''(ii) the short- and long-term goals of the project, including opportunities for future innovation and development, the potential for deployment, and benefits to riders and public transportation; and

''(iii) the short- and long-term funding requirements to complete the project and any future objectives of the project.

''(b) RESEARCH.—

''(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation research project that has as its ultimate goal the development and deployment of new and innovative ideas, practices, and approaches.

''(2) PROJECT ELIGIBILITY.—A public transportation research project that receives assistance under paragraph (1) shall focus on—

''(A) providing more effective and efficient public transportation service, including services to—

''(i) seniors;

''(ii) individuals with disabilities; and

''(iii) low-income individuals;

''(B) mobility management and improvements and travel management systems;

''(C) data and communication system advancements;

''(D) system capacity, including—

''(i) train control;

''(ii) capacity improvements; and

''(iii) performance management;

''(E) capital and operating efficiencies;

''(F) planning and forecasting modeling and simulation;

''(G) advanced vehicle design;

''(H) advancements in vehicle technology;

''(I) asset maintenance and repair systems advancement;

''(J) construction and project management;

''(K) alternative fuels;

''(L) the environment and energy efficiency;

''(M) safety improvements; or

''(N) any other area that the Secretary determines is important to advance the interests of public transportation.

''(c) INNOVATION AND DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary may make a grant to or enter into a contract, cooperative agreement, or other agreement under this section with an entity described in subsection (a)(2) to carry out a public transportation innovation and development project that seeks to improve public transportation systems nationwide in order to provide more efficient and effective delivery of public transportation services, including through technology and technological capacity improvements.

''(2) PROJECT ELIGIBILITY.—A public transportation innovation and development project that receives assistance under paragraph (1) shall focus on—

''(A) the development of public transportation research projects that received assistance under subsection (b) that the Secretary determines were successful;

''(B) planning and forecasting modeling and simulation;

''(C) capital and operating efficiencies;

''(D) advanced vehicle design;

''(E) advancements in vehicle technology;

''(F) the environment and energy efficiency;

''(G) system capacity, including train control and capacity improvements; or

''(H) any other area that the Secretary determines is important to advance the interests of public transportation.

''(d) DEMONSTRATION, DEPLOYMENT, AND EVALUATION.—

''(1) IN GENERAL.—The Secretary may, under terms and conditions that the Secretary prescribes, make a grant to or enter into a contract, cooperative agreement, or other agreement with an entity described in paragraph (2) to promote the early deployment and demonstration of innovation in public transportation that has broad applicability.

''(2) PARTICIPANTS.—An entity described in this paragraph is—

''(A) an entity described in subsection (a)(2); or

''(B) a consortium of entities described in subsection (a)(2), including a provider of public transportation, that will share the costs, risks, and rewards of early deployment and demonstration of innovation.

''(3) PROJECT ELIGIBILITY.—A project that receives assistance under paragraph (1) shall seek to build on successful research, innovation, and development efforts to facilitate—

''(A) the deployment of research and technology development resulting from private efforts or federally funded efforts; and

''(B) the implementation of research and technology development to advance the interests of public transportation.

''(4) EVALUATION.—Not later than 2 years after the date on which a project receives assistance under paragraph (1), the Secretary shall conduct a comprehensive evaluation of the success or failure of the projects funded under this subsection and any plan for broad-based implementation of the innovation promoted by successful projects.

''(e) ANNUAL REPORT ON RESEARCH.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives a report that includes—

''(1) a description of each project that received assistance under this section during the preceding fiscal year;

''(2) an evaluation of each project described in paragraph (1), including any evaluation conducted under subsection (d)(4) for the preceding fiscal year; and

''(3) a proposal for allocations of amounts for assistance under this section for the subsequent fiscal year.

''(f) GOVERNMENT SHARE OF COSTS.—

''(1) IN GENERAL.—The Government share of the cost of a project carried out under this section shall not exceed 80 percent.

''(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a project carried out under this section may be derived from in-kind contributions.

''(3) FINANCIAL BENEFIT.—If the Secretary determines that there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under this section, the Secretary shall establish a Government share of the costs of the project to be carried out under the grant, contract, cooperative agreement, or other agreement that is consistent with the benefit.''.

SEC. 20014. TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.

Section 5314 of title 49, United States Code, is amended to read as follows:

''§ 5314. Technical assistance and standards development

''(a) TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) to carry out activities that the Secretary determines will assist recipients of assistance under this chapter to—

''(A) more effectively and efficiently provide public transportation service;

''(B) administer funds received under this chapter in compliance with Federal law; and

''(C) improve public transportation.

''(2) ELIGIBLE ACTIVITIES.—The activities carried out under paragraph (1) may include—

''(A) technical assistance; and

''(B) the development of standards and best practices by the public transportation industry.

''(b) TECHNICAL ASSISTANCE CENTERS.—

''(1) DEFINITION.—In this subsection, the term 'eligible entity' means a nonprofit organization, an institution of higher education, or a technical or community college.

''(2) IN GENERAL.—The Secretary may make grants to and enter into contracts, cooperative agreements, and other agreements with eligible entities to administer centers to provide technical assistance, including—

''(A) the development of tools and guidance; and

''(B) the dissemination of best practices.

''(3) COMPETITIVE PROCESS.—The Secretary may make grants and enter into contracts, cooperative agreements, and other agreements under paragraph (2) through a competitive process on a biennial basis for technical assistance in each of the following categories:

''(A) Human services transportation coordination, including—

''(i) transportation for seniors;

''(ii) transportation for individuals with disabilities; and

''(iii) coordination of local resources and programs to assist low-income individuals and veterans in gaining access to training and employment opportunities.

''(B) Transit-oriented development.

''(C) Transportation equity with regard to the impact that transportation planning, investment, and operations have on low-income and minority individuals.

''(D) Financing mechanisms, including—

''(i) public-private partnerships;

''(ii) bonding; and

''(iii) State and local capacity building.

''(E) Any other activity that the Secretary determines is important to advance the interests of public transportation.

''(4) EXPERTISE OF TECHNICAL ASSISTANCE CENTERS.—In selecting an eligible entity to administer a center under this subsection, the Secretary shall consider—

''(A) the demonstrated subject matter expertise of the eligible entity; and

''(B) the capacity of the eligible entity to deliver technical assistance on a regional or nationwide basis.

''(5) PARTNERSHIPS.—An eligible entity may partner with another eligible entity to provide technical assistance under this subsection.

''(c) GOVERNMENT SHARE OF COSTS.—

''(1) IN GENERAL.—The Government share of the cost of an activity under this section may not exceed 80 percent.

''(2) NON-GOVERNMENT SHARE.—The non-Government share of the cost of an activity under this section may be derived from in-kind contributions.''.

SEC. 20015. BUS TESTING FACILITIES.

Section 5318 of title 49, United States Code, is amended to read as follows:

''§ 5318. Bus testing facilities

''(a) FACILITIES.—The Secretary shall certify not more than 4 comprehensive facilities for testing new bus models for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

''(b) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with not more than 4 qualified entities to test public transportation vehicles under subsection (a).

''(c) FEES.—An entity that operates and maintains a facility certified under subsection (a) shall establish and collect reasonable fees for the testing of vehicles at the facility. The Secretary must approve the fees.

''(d) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—

''(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with an entity that operates and maintains a facility certified under subsection (a), under which 80 percent of the fee for testing a vehicle at the facility may be available from amounts apportioned to a recipient under section 5336 or from amounts appropriated to carry out this section.

''(2) PROHIBITION.—An entity that operates and maintains a facility described in subsection (a) shall not have a financial interest in the outcome of the testing carried out at the facility.

''(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if—

''(1) a bus of that model has been tested at a facility described in subsection (a); and

''(2) the bus tested under paragraph (1) met—

''(A) performance standards for maintainability, reliability, performance (including braking performance), structural integrity, fuel economy, emissions, and noise, as established by the Secretary by rule; and

''(B) the minimum safety performance standards established by the Secretary pursuant to section 5329(b).''.

SEC. 20016. PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT AND HUMAN RESOURCE PROGRAMS.

Section 5322 of title 49, United States Code, is amended to read as follows:

''§ 5322. Public transportation workforce development and human resource programs

''(a) IN GENERAL.—The Secretary may undertake, or make grants or enter into contracts for, activities that address human resource needs as the needs apply to public transportation activities, including activities that—

''(1) educate and train employees;

''(2) develop the public transportation workforce through career outreach and preparation;

''(3) develop a curriculum for workforce development;

''(4) conduct outreach programs to increase minority and female employment in public transportation;

''(5) conduct research on public transportation personnel and training needs;

''(6) provide training and assistance for minority business opportunities;

''(7) advance training relating to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation; and

''(8) address a current or projected workforce shortage in an area that requires technical expertise.

''(b) FUNDING.—

''(1) URBANIZED AREA FORMULA GRANTS.—A recipient or subrecipient of funding under section 5307 shall expend not less than 0.5 percent of such funding for activities consistent with subsection (a).

''(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) with respect to a recipient or subrecipient if the Secretary determines that the recipient or subrecipient—

''(A) has an adequate workforce development program; or

''(B) has partnered with a local educational institution in a manner that sufficiently promotes or addresses workforce development and human resource needs.

''(c) INNOVATIVE PUBLIC TRANSPORTATION WORKFORCE DEVELOPMENT PROGRAM.—

''(1) PROGRAM ESTABLISHED.—The Secretary shall establish a competitive grant program to assist the development of innovative activities eligible for assistance under subsection (a).

''(2) SELECTION OF RECIPIENTS.—To the maximum extent feasible, the Secretary shall select recipients that—

''(A) are geographically diverse;

''(B) address the workforce and human resources needs of large public transportation providers;

''(C) address the workforce and human resources needs of small public transportation providers;

''(D) address the workforce and human resources needs of urban public transportation providers;

''(E) address the workforce and human resources needs of rural public transportation providers;

''(F) advance training related to maintenance of alternative energy, energy efficiency, or zero emission vehicles and facilities used in public transportation;

''(G) target areas with high rates of unemployment; and

''(H) address current or projected workforce shortages in areas that require technical expertise.

''(d) GOVERNMENT'S SHARE OF COSTS.—The Government share of the cost of a project carried out using a grant under this section shall be 50 percent.

''(e) REPORT.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the measurable outcomes and impacts of the programs funded under this section.''.

SEC. 20017. GENERAL PROVISIONS.

Section 5323 of title 49, United States Code, is amended to read as follows:

''§ 5323. General provisions

''(a) INTERESTS IN PROPERTY.—

''(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

''(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303 and 5304;

''(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

''(C) just compensation under State or local law will be paid to the company for its franchise or property.

''(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

''(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

''(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

''(1) COOPERATION AND CONSULTATION.—In carrying out the goal described in section 5301(c)(2), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

''(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

''(d) CORRIDOR PRESERVATION.—

''(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

''(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

''(e) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

''(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

''(2) VIOLATIONS.—

''(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

''(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

''(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

''(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

''(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

''(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

''(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

''(g) SCHOOLBUS TRANSPORTATION.—

''(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

''(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

''(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

''(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

''(h) BUYING BUSES UNDER OTHER LAWS.—Subsections (e) and (g) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

''(i) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

''(1) pay ordinary governmental or nonproject operating expenses; or

''(2) support a procurement that uses an exclusionary or discriminatory specification.

''(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

''(k) BUY AMERICA.—

''(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

''(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

''(A) applying paragraph (1) would be inconsistent with the public interest;

''(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

''(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

''(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

''(ii) final assembly of the rolling stock has occurred in the United States; or

''(D) including domestic material will increase the cost of the overall project by more than 25 percent.

''(3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

''(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

''(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

''(ii) provide the public with a reasonable period of time for notice and comment.

''(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

''(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

''(5) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

''(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

''(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

''(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

''(A) affixed a 'Made in America' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

''(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

''(7) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

''(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

''(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

''(l) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

''(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

''(2) be included in the planning for those services.

''(m) RELATIONSHIP TO OTHER LAWS.—

''(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

''(2) POLITICAL ACTIVITIES OF NONSUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

''(n) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (k) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

''(o) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

''(p) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

''(q) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

''(1) the incidental use does not interfere with the recipient's public transportation operations;

''(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

''(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

''(4) private entities pay all applicable excise taxes on fuel.

''(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

''(1) STUDY.—Not later than 6 months after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall conduct a study to determine the feasibility of providing a categorical exclusion for streetcar, bus rapid transit, and light rail projects located within an existing transportation right-of-way from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with the Council on Environmental Quality implementing regulations under parts 1500 through 1508 of title 40, Code of Federal Regulations, or any successor thereto.

''(2) FINDINGS AND RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue findings and, if appropriate, issue rules to provide categorical exclusions for suitable categories of projects.''.

SEC. 20018. CONTRACT REQUIREMENTS.

Section 5325 of title 49, United States Code, is amended—

(1) in subsection (h), by striking ''Federal Public Transportation Act of 2005'' and inserting ''Federal Public Transportation Act of 2012'';

(2) in subsection (j)(2)(C), by striking '', including the performance reported in the Contractor Performance Assessment Reports required under section 5309(l)(2)''; and

(3) by adding at the end the following:

''(k) VETERANS EMPLOYMENT.—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract.''.

SEC. 20019. TRANSIT ASSET MANAGEMENT.

Section 5326 of title 49, United States Code, is amended to read as follows:

''§ 5326. Transit asset management

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

''(1) CAPITAL ASSET.—The term 'capital asset' includes equipment, rolling stock, infrastructure, and facilities for use in public transportation and owned or leased by a recipient or subrecipient of Federal financial assistance under this chapter.

''(2) TRANSIT ASSET MANAGEMENT PLAN.—The term 'transit asset management plan' means a plan developed by a recipient of funding under this chapter that—

''(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

''(B) the recipient certifies complies with the rule issued under this section.

''(3) TRANSIT ASSET MANAGEMENT SYSTEM.—The term 'transit asset management system' means a strategic and systematic process of operating, maintaining, and improving public transportation capital assets effectively throughout the life cycle of such assets.

''(b) TRANSIT ASSET MANAGEMENT SYSTEM.—The Secretary shall establish and implement a national transit asset management system, which shall include—

''(1) a definition of the term 'state of good repair' that includes objective standards for measuring the condition of capital assets of recipients, including equipment, rolling stock, infrastructure, and facilities;

''(2) a requirement that recipients and subrecipients of Federal financial assistance under this chapter develop a transit asset management plan;

''(3) a requirement that each recipient of Federal financial assistance under this chapter report on the condition of the system of the recipient and provide a description of any change in condition since the last report;

''(4) an analytical process or decision support tool for use by public transportation systems that—

''(A) allows for the estimation of capital investment needs of such systems over time; and

''(B) assists with asset investment prioritization by such systems; and

''(5) technical assistance to recipients of Federal financial assistance under this chapter.

''(c) PERFORMANCE MEASURES AND TARGETS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to establish performance measures based on the state of good repair standards established under subsection (b)(1).

''(2) TARGETS.—Not later than 3 months after the date on which the Secretary issues a final rule under paragraph (1), and each fiscal year thereafter, each recipient of Federal financial assistance under this chapter shall establish performance targets in relation to the performance measures established by the Secretary.

''(3) REPORTS.—Each recipient of Federal financial assistance under this chapter shall submit to the Secretary an annual report that describes—

''(A) the progress of the recipient during the fiscal year to which the report relates toward meeting the performance targets established under paragraph (2) for that fiscal year; and

''(B) the performance targets established by the recipient for the subsequent fiscal year.

''(d) RULEMAKING.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue a final rule to implement the transit asset management system described in subsection (b).''.

SEC. 20020. PROJECT MANAGEMENT OVERSIGHT.

Section 5327 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''United States'' and all that follows through ''Secretary of Transportation'' and inserting the following: ''Federal financial assistance for a major capital project for public transportation under this chapter or any other provision of Federal law, a recipient must prepare a project management plan approved by the Secretary and carry out the project in accordance with the project management plan''; and

(B) in paragraph (12), by striking ''each month'' and inserting ''quarterly'';

(2) by striking subsections (c), (d), and (f);

(3) by inserting after subsection (b) the following:

''(c) ACCESS TO SITES AND RECORDS.—Each recipient of Federal financial assistance for public transportation under this chapter or any other provision of Federal law shall provide the Secretary and a contractor the Secretary chooses under section 5338(g) with access to the construction sites and records of the recipient when reasonably necessary.'';

(4) by redesignating subsection (e) as subsection (d); and

(5) in subsection (d), as so redesignated—

(A) in paragraph (1), by striking ''subsection (c) of this section'' and inserting ''section 5338(g)''; and

(B) in paragraph (2)—

(i) by striking ''preliminary engineering stage'' and inserting ''project development phase''; and

(ii) by striking ''another stage'' and inserting ''another phase''.

SEC. 20021. PUBLIC TRANSPORTATION SAFETY.

(a) PUBLIC TRANSPORTATION SAFETY PROGRAM.—Section 5329 of title 49, United States Code, is amended to read as follows:

''§ 5329. Public transportation safety program

''(a) DEFINITION.—In this section, the term 'recipient' means a State or local governmental authority, or any other operator of a public transportation system, that receives financial assistance under this chapter.

''(b) NATIONAL PUBLIC TRANSPORTATION SAFETY PLAN.—

''(1) IN GENERAL.—The Secretary shall create and implement a national public transportation safety plan to improve the safety of all public transportation systems that receive funding under this chapter.

''(2) CONTENTS OF PLAN.—The national public transportation safety plan under paragraph (1) shall include—

''(A) safety performance criteria for all modes of public transportation;

''(B) the definition of the term 'state of good repair' established under section 5326(b);

''(C) minimum safety performance standards for public transportation vehicles used in revenue operations that—

''(i) do not apply to rolling stock otherwise regulated by the Secretary or any other Federal agency; and

''(ii) to the extent practicable, take into consideration—

''(I) relevant recommendations of the National Transportation Safety Board; and

''(II) recommendations of, and best practices standards developed by, the public transportation industry; and

''(D) a public transportation safety certification training program, as described in subsection (c).

''(c) PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish a public transportation safety certification training program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

''(2) INTERIM PROVISIONS.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall establish interim provisions for the certification and training of the personnel described in paragraph (1), which shall be in effect until the effective date of the final rule issued by the Secretary to implement this subsection.

''(d) PUBLIC TRANSPORTATION AGENCY SAFETY PLAN.—

''(1) IN GENERAL.—Effective 1 year after the effective date of a final rule issued by the Secretary to carry out this subsection, each recipient shall certify that the recipient has established a comprehensive agency safety plan that includes, at a minimum—

''(A) a requirement that the board of directors (or equivalent entity) of the recipient approve the agency safety plan and any updates to the agency safety plan;

''(B) methods for identifying and evaluating safety risks throughout all elements of the public transportation system of the recipient;

''(C) strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions;

''(D) a process and timeline for conducting an annual review and update of the safety plan of the recipient;

''(E) performance targets based on the safety performance criteria and state of good repair standards established under subparagraphs (A) and (B), respectively, of subsection (b)(2);

''(F) assignment of an adequately trained safety officer who reports directly to the general manager, president, or equivalent officer of the recipient; and

''(G) a comprehensive staff training program for the operations personnel and personnel directly responsible for safety of the recipient that includes—

''(i) the completion of a safety training program; and

''(ii) continuing safety education and training.

''(2) INTERIM AGENCY SAFETY PLAN.—A system safety plan developed pursuant to part 659 of title 49, Code of Federal Regulations, as in effect on the date of enactment of the Federal Public Transportation Act of 2012, shall remain in effect until such time as this subsection takes effect.

''(e) STATE SAFETY OVERSIGHT PROGRAM.—

''(1) APPLICABILITY.—This subsection applies only to eligible States.

''(2) DEFINITION.—In this subsection, the term 'eligible State' means a State that has—

''(A) a rail fixed guideway public transportation system within the jurisdiction of the State that is not subject to regulation by the Federal Railroad Administration; or

''(B) a rail fixed guideway public transportation system in the engineering or construction phase of development within the jurisdiction of the State that will not be subject to regulation by the Federal Railroad Administration.

''(3) IN GENERAL.—In order to obligate funds apportioned under section 5338 to carry out this chapter, effective 3 years after the date on which a final rule under this subsection becomes effective, an eligible State shall have in effect a State safety oversight program approved by the Secretary under which the State—

''(A) assumes responsibility for overseeing rail fixed guideway public transportation safety;

''(B) adopts and enforces Federal law on rail fixed guideway public transportation safety;

''(C) establishes a State safety oversight agency;

''(D) determines, in consultation with the Secretary, an appropriate staffing level for the State safety oversight agency that is commensurate with the number, size, and complexity of the rail fixed guideway public transportation systems in the eligible State;

''(E) requires that employees and other designated personnel of the eligible State safety oversight agency who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform such functions through appropriate training, including successful completion of the public transportation safety certification training program established under subsection (c); and

''(F) prohibits any public transportation agency from providing funds to the State safety oversight agency or an entity designated by the eligible State as the State safety oversight agency under paragraph (4).

''(4) STATE SAFETY OVERSIGHT AGENCY.—

''(A) IN GENERAL.—Each State safety oversight program shall establish a State safety oversight agency that—

''(i) is an independent legal entity responsible for the safety of rail fixed guideway public transportation systems;

''(ii) is financially and legally independent from any public transportation entity that the State safety oversight agency oversees;

''(iii) does not fund, promote, or provide public transportation services;

''(iv) does not employ any individual who is also responsible for the administration of public transportation programs;

''(v) has the authority to review, approve, oversee, and enforce the implementation by the rail fixed guideway public transportation agency of the public transportation agency safety plan required under subsection (d);

''(vi) has investigative and enforcement authority with respect to the safety of rail fixed guideway public transportation systems of the eligible State;

''(vii) audits, at least once triennially, the compliance of the rail fixed guideway public transportation systems in the eligible State subject to this subsection with the public transportation agency safety plan required under subsection (d); and

''(viii) provides, at least once annually, a status report on the safety of the rail fixed guideway public transportation systems the State safety oversight agency oversees to—

''(I) the Federal Transit Administration;

''(II) the Governor of the eligible State; and

''(III) the board of directors, or equivalent entity, of any rail fixed guideway public transportation system that the State safety oversight agency oversees.

''(B) WAIVER.—At the request of an eligible State, the Secretary may waive clauses (i) and (iii) of subparagraph (A) for eligible States with 1 or more rail fixed guideway systems in revenue operations, design, or construction, that—

''(i) have fewer than 1,000,000 combined actual and projected rail fixed guideway revenue miles per year; or

''(ii) provide fewer than 10,000,000 combined actual and projected unlinked passenger trips per year.

''(5) ENFORCEMENT.—Each State safety oversight agency shall have the authority to request that the Secretary take enforcement actions available under subsection (g) against a rail fixed guideway public transportation system that is not in compliance with Federal safety laws.

''(6) PROGRAMS FOR MULTI-STATE RAIL FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEMS.—An eligible State that has within the jurisdiction of the eligible State a rail fixed guideway public transportation system that operates in more than 1 eligible State shall—

''(A) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, ensure uniform safety standards and enforcement procedures that shall be in compliance with this section, and establish and implement a State safety oversight program approved by the Secretary; or

''(B) jointly with all other eligible States in which the rail fixed guideway public transportation system operates, designate an entity having characteristics consistent with the characteristics described in paragraph (3) to carry out the State safety oversight program approved by the Secretary.

''(7) GRANTS.—

''(A) IN GENERAL.—The Secretary may make a grant to an eligible State to develop or carry out a State safety oversight program, if the eligible State submits—

''(i) a proposal for the establishment of a State safety oversight program to the Secretary for review and written approval before implementing a State safety oversight program; and

''(ii) any amendment to the State safety oversight program of the eligible State to the Secretary for review not later than 60 days before the effective date of the amendment.

''(B) DETERMINATION BY SECRETARY.—

''(i) IN GENERAL.—The Secretary shall transmit written approval to an eligible State that submits a State safety oversight program, if the Secretary determines the State safety oversight program meets the requirements of this subsection and the State safety oversight program is adequate to promote the purposes of this section.

''(ii) AMENDMENT.—The Secretary shall transmit to an eligible State that submits an amendment under subparagraph (A)(ii) a written determination with respect to the amendment.

''(iii) NO WRITTEN DECISION.—If an eligible State does not receive a written decision from the Secretary with respect to an amendment submitted under subparagraph (A)(ii) before the end of the 60-day period beginning on the date on which the eligible State submits the amendment, the amendment shall be deemed to be approved.

''(iv) DISAPPROVAL.—If the Secretary determines that a State safety oversight program does not meet the requirements of this subsection, the Secretary shall transmit to the eligible State a written explanation and allow the eligible State to modify and resubmit the State safety oversight program for approval.

''(C) GOVERNMENT SHARE.—

''(i) IN GENERAL.—The Government share of the reasonable cost of a State safety oversight program developed or carried out using a grant under this paragraph shall be 80 percent.

''(ii) IN-KIND CONTRIBUTIONS.—Any calculation of the non-Government share of a State safety oversight program shall include in-kind contributions by an eligible State.

''(iii) NON-GOVERNMENT SHARE.—The non-Government share of the cost of a State safety oversight program developed or carried out using a grant under this paragraph may not be met by—

''(I) any Federal funds;

''(II) any funds received from a public transportation agency; or

''(III) any revenues earned by a public transportation agency.

''(iv) SAFETY TRAINING PROGRAM.—The Secretary may reimburse an eligible State or a recipient for the full costs of participation in the public transportation safety certification training program established under subsection (c) by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight.

''(8) CONTINUAL EVALUATION OF PROGRAM.—The Secretary shall continually evaluate the implementation of a State safety oversight program by a State safety oversight agency, on the basis of—

''(A) reports submitted by the State safety oversight agency under paragraph (4)(A)(viii); and

''(B) audits carried out by the Secretary.

''(9) INADEQUATE PROGRAM.—

''(A) IN GENERAL.—If the Secretary finds that a State safety oversight program approved by the Secretary is not being carried out in accordance with this section or has become inadequate to ensure the enforcement of Federal safety regulations, the Secretary shall—

''(i) transmit to the eligible State a written explanation of the reason the program has become inadequate and inform the State of the intention to withhold funds, including the amount of funds proposed to be withheld under this section, or withdraw approval of the State safety oversight program; and

''(ii) allow the eligible State a reasonable period of time to modify the State safety oversight program or implementation of the program and submit an updated proposal for the State safety oversight program to the Secretary for approval.

''(B) FAILURE TO CORRECT.—If the Secretary determines that a modification by an eligible State of the State safety oversight program is not sufficient to ensure the enforcement of Federal safety regulations, the Secretary may—

''(i) withhold funds available under this section in an amount determined by the Secretary; or

''(ii) provide written notice of withdrawal of State safety oversight program approval.

''(C) TEMPORARY OVERSIGHT.—In the event the Secretary takes action under subparagraph (B)(ii), the Secretary shall provide oversight of the rail fixed guideway systems in an eligible State until the State submits a State safety oversight program approved by the Secretary.

''(D) RESTORATION.—

''(i) CORRECTION.—The eligible State shall address any inadequacy to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under this paragraph.

''(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under this paragraph shall remain available for restoration to the eligible State until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible States under this section.

''(10) FEDERAL OVERSIGHT.—The Secretary shall—

''(A) oversee the implementation of each State safety oversight program under this subsection;

''(B) audit the operations of each State safety oversight agency at least once triennially; and

''(C) issue rules to carry out this subsection.

''(f) AUTHORITY OF SECRETARY.—In carrying out this section, the Secretary may—

''(1) conduct inspections, investigations, audits, examinations, and testing of the equipment, facilities, rolling stock, and operations of the public transportation system of a recipient;

''(2) make reports and issue directives with respect to the safety of the public transportation system of a recipient;

''(3) in conjunction with an accident investigation or an investigation into a pattern or practice of conduct that negatively affects public safety, issue a subpoena to, and take the deposition of, any employee of a recipient or a State safety oversight agency, if—

''(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with an ongoing criminal investigation; and

''(B) the Attorney General—

''(i) determines that the subpoena will not interfere with an ongoing criminal investigation; or

''(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A);

''(4) require the production of documents by, and prescribe recordkeeping and reporting requirements for, a recipient or a State safety oversight agency;

''(5) investigate public transportation accidents and incidents and provide guidance to recipients regarding prevention of accidents and incidents;

''(6) at reasonable times and in a reasonable manner, enter and inspect equipment, facilities, rolling stock, operations, and relevant records of the public transportation system of a recipient; and

''(7) issue rules to carry out this section.

''(g) ENFORCEMENT ACTIONS.—

''(1) TYPES OF ENFORCEMENT ACTIONS.—The Secretary may take enforcement action against a recipient that does not comply with Federal law with respect to the safety of the public transportation system, including—

''(A) issuing directives;

''(B) requiring more frequent oversight of the recipient by a State safety oversight agency or the Secretary;

''(C) imposing more frequent reporting requirements;

''(D) requiring that any Federal financial assistance provided under this chapter be spent on correcting safety deficiencies identified by the Secretary or the State safety oversight agency before such funds are spent on other projects;

''(E) subject to paragraph (2), withholding Federal financial assistance, in an amount to be determined by the Secretary, from the recipient, until such time as the recipient comes into compliance with this section; and

''(F) subject to paragraph (3), imposing a civil penalty, in an amount to be determined by the Secretary.

''(2) USE OR WITHHOLDING OF FUNDS.—

''(A) IN GENERAL.—The Secretary may require the use of funds in accordance with paragraph (1)(D), or withhold funds under paragraph (1)(E), only if the Secretary finds that a recipient is engaged in a pattern or practice of serious safety violations or has otherwise refused to comply with Federal law relating to the safety of the public transportation system.

''(B) NOTICE.—Before withholding funds from a recipient under paragraph (1)(E), the Secretary shall provide to the recipient—

''(i) written notice of a violation and the amount proposed to be withheld; and

''(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

''(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may withhold funds under paragraph (1)(E).

''(D) RESTORATION.—

''(i) CORRECTION.—The recipient shall address any violation to the satisfaction of the Secretary prior to the Secretary restoring funds withheld under paragraph (1)(E).

''(ii) AVAILABILITY AND REALLOCATION.—Any funds withheld under paragraph (1)(E) shall remain available for restoration to the recipient until the end of the first fiscal year after the fiscal year in which the funds were withheld, after which time the funds shall be available to the Secretary for allocation to other eligible recipients.

''(E) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

''(3) CIVIL PENALTIES.—

''(A) IMPOSITION OF CIVIL PENALTIES.—

''(i) IN GENERAL.—The Secretary may impose a civil penalty under paragraph (1)(F) only if—

''(I) the Secretary has exhausted the enforcement actions available under subparagraphs (A) through (E) of paragraph (1); and

''(II) the recipient continues to be in violation of Federal safety law.

''(ii) EXCEPTION.—The Secretary may waive the requirement under clause (i)(I) if the Secretary determines that such a waiver is in the public interest.

''(B) NOTICE.—Before imposing a civil penalty on a recipient under paragraph (1)(F), the Secretary shall provide to the recipient—

''(i) written notice of any violation and the penalty proposed to be imposed; and

''(ii) a reasonable period of time within which the recipient may address the violation or propose and initiate an alternative means of compliance that the Secretary determines is acceptable.

''(C) FAILURE TO ADDRESS.—If the recipient does not address the violation or propose an alternative means of compliance that the Secretary determines is acceptable within the period of time specified in the written notice, the Secretary may impose a civil penalty under paragraph (1)(F).

''(D) NOTIFICATION.—Not later than 3 days before taking any action under subparagraph (C), the Secretary shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of such action.

''(E) DEPOSIT OF CIVIL PENALTIES.—Any amounts collected by the Secretary under this paragraph shall be deposited into the Mass Transit Account of the Highway Trust Fund.

''(4) ENFORCEMENT BY THE ATTORNEY GENERAL.—At the request of the Secretary, the Attorney General may bring a civil action—

''(A) for appropriate injunctive relief to ensure compliance with this section;

''(B) to collect a civil penalty imposed under paragraph (1)(F); and

''(C) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this section.

''(h) COST-BENEFIT ANALYSIS.—

''(1) ANALYSIS REQUIRED.—In carrying out this section, the Secretary shall take into consideration the costs and benefits of each action the Secretary proposes to take under this section.

''(2) WAIVER.—The Secretary may waive the requirement under this subsection if the Secretary determines that such a waiver is in the public interest.

''(i) CONSULTATION BY THE SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall consult with the Secretary of Transportation before the Secretary of Homeland Security issues a rule or order that the Secretary of Transportation determines affects the safety of public transportation design, construction, or operations.

''(j) PREEMPTION OF STATE LAW.—

''(1) NATIONAL UNIFORMITY OF REGULATION.—Laws, regulations, and orders related to public transportation safety shall be nationally uniform to the extent practicable.

''(2) IN GENERAL.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation until the Secretary issues a rule or order covering the subject matter of the State requirement.

''(3) MORE STRINGENT LAW.—A State may adopt or continue in force a law, regulation, or order related to the safety of public transportation that is consistent with, in addition to, or more stringent than a regulation or order of the Secretary if the Secretary determines that the law, regulation, or order—

''(A) has a safety benefit;

''(B) is not incompatible with a law, regulation, or order, or the terms and conditions of a financial assistance agreement of the United States Government; and

''(C) does not unreasonably burden interstate commerce.

''(4) ACTIONS UNDER STATE LAW.—

''(A) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with—

''(i) a Federal standard of care established by a regulation or order issued by the Secretary under this section;

''(ii) its own program, rule, or standard that it created pursuant to a rule or order issued by the Secretary; or

''(iii) a State law, regulation, or order that is not incompatible with paragraph (2).

''(B) EFFECTIVE DATE.—This paragraph shall apply to any cause of action under State law arising from an event or activity occurring on or after the date of enactment of the Federal Public Transportation Act of 2012.

''(5) JURISDICTION.—Nothing in this section shall be construed to create a cause of action under Federal law on behalf of an injured party or confer Federal question jurisdiction for a State law cause of action.

''(k) ANNUAL REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report that—

''(1) analyzes public transportation safety trends among the States and documents the most effective safety programs implemented using grants under this section; and

''(2) describes the effect on public transportation safety of activities carried out using grants under this section.''.

(b) BUS SAFETY STUDY.—

(1) DEFINITION.—In this subsection, the term ''highway route'' means a route where 50 percent or more of the route is on roads having a speed limit of more than 45 miles per hour.

(2) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

(A) examines the safety of public transportation buses that travel on highway routes;

(B) examines laws and regulations that apply to commercial over-the-road buses; and

(C) makes recommendations as to whether additional safety measures should be required for public transportation buses that travel on highway routes.

SEC. 20022. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

Section 5331(b)(2) of title 49, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following:

''(A) shall establish and implement an enforcement program that includes the imposition of penalties for failure to comply with this section;''.

SEC. 20023. NONDISCRIMINATION.

(a) AMENDMENTS.—Section 5332 of title 49, United States Code, is amended—

(1) in subsection (b)—

(A) by striking ''creed'' and inserting ''religion''; and

(B) by inserting ''disability,'' after ''sex,''; and

(2) in subsection (d)(3), by striking ''and'' and inserting ''or''.

(b) EVALUATION AND REPORT.—

(1) EVALUATION.—The Comptroller General of the United States shall evaluate the progress and effectiveness of the Federal Transit Administration in assisting recipients of assistance under chapter 53 of title 49, United States Code, to comply with section 5332(b) of title 49, including—

(A) by reviewing discrimination complaints, reports, and other relevant information collected or prepared by the Federal Transit Administration or recipients of assistance from the Federal Transit Administration pursuant to any applicable civil

rights statute, regulation, or other requirement; and

(B) by reviewing the process that the Federal Transit Administration uses to resolve discrimination complaints filed by members of the public.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report concerning the evaluation under paragraph (1) that includes—

(A) a description of the ability of the Federal Transit Administration to address discrimination and foster equal opportunities in federally funded public transportation projects, programs, and activities;

(B) recommendations for improvements if the Comptroller General determines that improvements are necessary; and

(C) information upon which the evaluation under paragraph (1) is based.

SEC. 20024. LABOR STANDARDS.

Section 5333(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)'' each place that term appears and inserting ''sections 5307, 5308, 5309, 5311, and 5337''; and

(2) in paragraph (5), by inserting ''of Labor'' after ''Secretary''.

SEC. 20025. ADMINISTRATIVE PROVISIONS.

Section 5334 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by striking ''under sections 5307 and 5309-5311 of this title'' and inserting ''that receives Federal financial assistance under this chapter'';

(2) in subsection (b)(1)—

(A) by inserting after ''emergency,'' the following: ''or for purposes of establishing and enforcing a program to improve the safety of public transportation systems in the United States,''; and

(B) by striking ''chapter, nor may the Secretary'' and inserting ''chapter. The Secretary may not'';

(3) in subsection (c)(4), by striking ''section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f)'' and inserting ''subsection'';

(4) in subsection (h)(3), by striking ''another'' and inserting ''any other'';

(5) in subsection (i)(1), by striking ''title 23 shall'' and inserting ''title 23 may'';

(6) by striking subsection (j); and

(7) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively.

SEC. 20026. NATIONAL TRANSIT DATABASE.

Section 5335 of title 49, United States Code, is amended by adding at the end the following:

''(c) DATA REQUIRED TO BE REPORTED.—The recipient of a grant under this chapter shall report to the Secretary, for inclusion in the National Transit Database, any information relating to—

''(1) the causes of a reportable incident, as defined by the Secretary; and

''(2) a transit asset inventory or condition assessment conducted by the recipient.''.

SEC. 20027. APPORTIONMENT OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 of title 49, United States Code, is amended to read as follows:

''§ 5336. Apportionment of appropriations for formula grants

''(a) BASED ON URBANIZED AREA POPULATION.—Of the amount apportioned under subsection (h)(4) to carry out section 5307—

''(1) 9.32 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

''(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the most recent decennial census; and

''(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile; and

''(2) 90.68 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

''(b) BASED ON FIXED GUIDEWAY VEHICLE REVENUE MILES, DIRECTIONAL ROUTE MILES, AND PASSENGER MILES.—(1) In this subsection, 'fixed guideway vehicle revenue miles' and 'fixed guideway directional route miles' include passenger ferry operations directly or under contract by the designated recipient.

''(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

''(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

''(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all areas; and

''(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway directional route miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

''(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

''(i) the number of fixed guideway vehicle passenger miles traveled multiplied by the number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in an area; divided by

''(ii) the total number of fixed guideway vehicle passenger miles traveled multiplied by the total number of fixed guideway vehicle passenger miles traveled for each dollar of operating cost in all areas.

An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subparagraph.

''(C) Under subparagraph (A) of this paragraph, fixed guideway vehicle revenue or directional route miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service.

''(D) A recipient's apportionment under subparagraph (A)(i) of this paragraph may not be reduced if the recipient, after satisfying the Secretary that energy or operating efficiencies would be achieved, reduces vehicle revenue miles but provides the same frequency of revenue service to the same number of riders.

''(c) BASED ON BUS VEHICLE REVENUE MILES AND PASSENGER MILES.—Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

''(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

''(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

''(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

''(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown in the most recent decennial census; and

''(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

''(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

''(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus vehicle revenue miles operated in or directly serving the urbanized area divided by the total bus vehicle revenue miles attributable to all areas;

''(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the most recent decennial census; and

''(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary, of the number of inhabitants in each square mile.

''(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

''(A) the number of bus passenger miles traveled multiplied by the number of bus passenger miles traveled for each dollar of operating cost in an area; divided by

''(B) the total number of bus passenger miles traveled multiplied by the total number of bus passenger miles traveled for each dollar of operating cost in all areas.

''(d) DATE OF APPORTIONMENT.—The Secretary shall—

''(1) apportion amounts appropriated under section 5338(a)(2)(C) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for

which the amounts are appropriated, whichever is later; and

''(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

''(e) AMOUNTS NOT APPORTIONED TO DESIGNATED RECIPIENTS.—The Governor of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient, as defined in section 5302(4).

''(f) TRANSFERS OF APPORTIONMENTS.—(1) The Governor of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5311(c)(3). The Governor may make a transfer only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was apportioned under this section.

''(2) The Governor of a State may transfer any part of the State's apportionment under section 5311(c)(3) to supplement amounts apportioned to the State under subsection (a)(1) of this section.

''(3) The Governor of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

''(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the Governor of a State. The Governor shall distribute the transferred amounts to urbanized areas under this section.

''(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

''(g) PERIOD OF AVAILABILITY TO RECIPIENTS.—An amount apportioned under this section may be obligated by the recipient for 5 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 5-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

''(h) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(C)—

''(1) $35,000,000 shall be set aside to carry out section 5307(i);

''(2) 3.07 percent shall be apportioned to urbanized areas in accordance with subsection (j);

''(3) of amounts not apportioned under paragraphs (1) and (2), 1 percent shall be apportioned to urbanized areas with populations of less than 200,000 in accordance with subsection (i); and

''(4) any amount not apportioned under paragraphs (1), (2), and (3) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

''(i) SMALL TRANSIT INTENSIVE CITIES FORMULA.—

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

''(A) ELIGIBLE AREA.—The term 'eligible area' means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).

''(B) PERFORMANCE CATEGORY.—The term 'performance category' means each of the following:

''(i) Passenger miles traveled per vehicle revenue mile.

''(ii) Passenger miles traveled per vehicle revenue hour.

''(iii) Vehicle revenue miles per capita.

''(iv) Vehicle revenue hours per capita.

''(v) Passenger miles traveled per capita.

''(vi) Passengers per capita.

''(2) APPORTIONMENT.—

''(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (h)(3) shall be apportioned among eligible areas in the ratio that—

''(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

''(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

''(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.

''(j) APPORTIONMENT FORMULA.—The amounts apportioned under subsection (h)(2) shall be apportioned among urbanized areas as follows:

''(1) 75 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of 200,000 or more in the ratio that—

''(A) the number of eligible low-income individuals in each such urbanized area; bears to

''(B) the number of eligible low-income individuals in all such urbanized areas.

''(2) 25 percent of the funds shall be apportioned among designated recipients for urbanized areas with a population of less than 200,000 in the ratio that—

''(A) the number of eligible low-income individuals in each such urbanized area; bears to

''(B) the number of eligible low-income individuals in all such urbanized areas.''.

SEC. 20028. STATE OF GOOD REPAIR GRANTS.

Section 5337 of title 49, United States Code, is amended to read as follows:

''§ 5337. State of good repair grants

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

''(1) FIXED GUIDEWAY.—The term 'fixed guideway' means a public transportation facility—

''(A) using and occupying a separate right-of-way for the exclusive use of public transportation;

''(B) using rail;

''(C) using a fixed catenary system;

''(D) for a passenger ferry system; or

''(E) for a bus rapid transit system.

''(2) STATE.—The term 'State' means the 50 States, the District of Columbia, and Puerto Rico.

''(3) STATE OF GOOD REPAIR.—The term 'state of good repair' has the meaning given that term by the Secretary, by rule, under section 5326(b).

''(4) TRANSIT ASSET MANAGEMENT PLAN.—The term 'transit asset management plan' means a plan developed by a recipient of funding under this chapter that—

''(A) includes, at a minimum, capital asset inventories and condition assessments, decision support tools, and investment prioritization; and

''(B) the recipient certifies that the recipient complies with the rule issued under section 5326(d).

''(b) GENERAL AUTHORITY.—

''(1) ELIGIBLE PROJECTS.—The Secretary may make grants under this section to assist State and local governmental authorities in financing capital projects to maintain public transportation systems in a state of good repair, including projects to replace and rehabilitate—

''(A) rolling stock;

''(B) track;

''(C) line equipment and structures;

''(D) signals and communications;

''(E) power equipment and substations;

''(F) passenger stations and terminals;

''(G) security equipment and systems;

''(H) maintenance facilities and equipment;

''(I) operational support equipment, including computer hardware and software;

''(J) development and implementation of a transit asset management plan; and

''(K) other replacement and rehabilitation projects the Secretary determines appropriate.

''(2) INCLUSION IN PLAN.—A recipient shall include a project carried out under paragraph (1) in the transit asset management plan of the recipient upon completion of the plan.

''(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR FORMULA.—

''(1) IN GENERAL.—Of the amount authorized or made available under section 5338(a)(2)(M), $1,874,763,500 shall be apportioned to recipients in accordance with this subsection.

''(2) AREA SHARE.—

''(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned for fixed guideway systems in accordance with this paragraph.

''(B) SHARE.—A recipient shall receive an amount equal to the amount described in subparagraph (A), multiplied by the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated in accordance with section 5336(b)(1) and using the definition of the term 'fixed guideway' under subsection (a) of this section, as such sections are in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012, and divided by the total amount apportioned for all areas under this section for fiscal year 2011.

''(C) RECIPIENT.—For purposes of this paragraph, the term 'recipient' means an entity that received funding under this section, as in effect for fiscal year 2011.

''(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

''(A) IN GENERAL.—50 percent of the amount described in paragraph (1) shall be apportioned to recipients in accordance with this paragraph.

''(B) VEHICLE REVENUE MILES.—A recipient in an urbanized area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway vehicle revenue miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway vehicle revenue miles attributable to all urbanized areas.

''(C) DIRECTIONAL ROUTE MILES.—A recipient in an urbanized area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway directional route miles attributable to the urbanized area, as established by the Secretary, divided by the total number of all fixed guideway directional route miles attributable to all urbanized areas.

''(4) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the share of the total amount apportioned under this section that

is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share apportioned to the area under this subsection in the previous fiscal year.

''(B) SPECIAL RULE FOR FISCAL YEAR 2012.—In fiscal year 2012, the share of the total amount apportioned under this section that is apportioned to an area under this subsection shall not decrease by more than 0.25 percentage points compared to the share that would have been apportioned to the area under this section, as in effect for fiscal year 2011, if the share had been calculated using the definition of the term 'fixed guideway' under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

''(5) USE OF FUNDS.—Amounts made available under this subsection shall be available for the exclusive use of fixed guideway projects.

''(6) RECEIVING APPORTIONMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for an area with a fixed guideway system, the amounts provided under this section shall be apportioned to the designated recipient for the urbanized area in which the system operates.

''(B) EXCEPTION.—An area described in the amendment made by section 3028(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 366) shall receive an individual apportionment under this subsection.

''(7) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway vehicle revenue miles or fixed guideway directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.

''(d) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—

''(1) IN GENERAL.—The Secretary may make grants under this section to assist State and local governmental authorities in financing fixed guideway capital projects to maintain public transportation systems in a state of good repair.

''(2) COMPETITIVE PROCESS.—The Secretary shall solicit grant applications and make grants for eligible projects on a competitive basis.

''(3) PRIORITY CONSIDERATION.—In making grants under this subsection, the Secretary shall give priority to grant applications received from recipients receiving an amount under this section that is not less than 2 percent less than the amount the recipient would have received under this section, as in effect for fiscal year 2011, if the amount had been calculated using the definition of the term 'fixed guideway' under subsection (a) of this section, as in effect on the day after the date of enactment of the Federal Public Transportation Act of 2012.

''(e) HIGH INTENSITY MOTORBUS STATE OF GOOD REPAIR.—

''(1) DEFINITION.—For purposes of this subsection, the term 'fixed guideway motorbus' means public transportation that is provided on a facility with access for other high-occupancy vehicles.

''(2) APPORTIONMENT.—Of the amount authorized or made available under section 5338(a)(2)(M), $112,500,000 shall be apportioned to urbanized areas for high intensity motorbus state of good repair in accordance with this subsection.

''(3) VEHICLE REVENUE MILES AND DIRECTIONAL ROUTE MILES.—

''(A) IN GENERAL.—$60,000,000 of the amount described in paragraph (2) shall be apportioned to each area in accordance with this paragraph.

''(B) VEHICLE REVENUE MILES.—Each area shall receive an amount equal to 60 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus vehicle revenue miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway motorbus vehicle revenue miles attributable to all areas.

''(C) DIRECTIONAL ROUTE MILES.—Each area shall receive an amount equal to 40 percent of the amount described in subparagraph (A), multiplied by the number of fixed guideway motorbus directional route miles attributable to the area, as established by the Secretary, divided by the total number of all fixed guideway motorbus directional route miles attributable to all areas.

''(4) SPECIAL RULE FOR FIXED GUIDEWAY MOTORBUS.—

''(A) IN GENERAL.—$52,500,000 of the amount described in paragraph (2) shall be apportioned—

''(i) in accordance with this paragraph; and

''(ii) among urbanized areas within a State in the same proportion as funds are apportioned within a State under section 5336, except subsection (b), and shall be added to such amounts.

''(B) TERRITORIES.—Of the amount described in subparagraph (A), $500,000 shall be distributed among the territories, as determined by the Secretary.

''(C) STATES.—Of the amount described in subparagraph (A), each State shall receive $1,000,000.

''(5) USE OF FUNDS.—A recipient may transfer any part of the apportionment under this subsection for use under subsection (c).

''(6) APPORTIONMENT REQUIREMENTS.—For purposes of determining the number of fixed guideway motorbus vehicle revenue miles or fixed guideway motorbus directional route miles attributable to an urbanized area for a fiscal year under this subsection, only segments of fixed guideway motorbus systems placed in revenue service not later than 7 years before the first day of the fiscal year shall be deemed to be attributable to an urbanized area.''.

SEC. 20029. AUTHORIZATIONS.

Section 5338 of title 49, United States Code, is amended to read as follows:

''§ 5338. Authorizations

''(a) FORMULA GRANTS.—

''(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310, 5311, 5312, 5313, 5314, 5315, 5322, 5335, and 5340, subsections (c) and (e) of section 5337, and section 20005(b) of the Federal Public Transportation Act of 2012, $8,360,565,000 for each of fiscal years 2012 and 2013.

''(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

''(A) $124,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5305;

''(B) $20,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 20005(b) of the Federal Public Transportation Act of 2012;

''(C) $4,756,161,500 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

''(D) $65,150,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5308, of which not less than $8,500,000 shall be used to carry out activities under section 5312;

''(E) $248,600,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for services for the enhanced mobility of seniors and individuals with disabilities under section 5310;

''(F) $591,190,000 for each of fiscal years 2012 and 2013 shall be available to provide financial assistance for other than urbanized areas under section 5311, of which not less than $30,000,000 shall be available to carry out section 5311(c)(1) and $20,000,000 shall be available to carry out section 5311(c)(2);

''(G) $34,000,000 for each of fiscal years 2012 and 2013 shall be available to carry out research, development, demonstration, and deployment projects under section 5312;

''(H) $6,500,000 for each of fiscal years 2012 and 2013 shall be available to carry out a transit cooperative research program under section 5313;

''(I) $4,500,000 for each of fiscal years 2012 and 2013 shall be available for technical assistance and standards development under section 5314;

''(J) $5,000,000 for each of fiscal years 2012 and 2013 shall be available for the National Transit Institute under section 5315;

''(K) $2,000,000 for each of fiscal years 2012 and 2013 shall be available for workforce development and human resource grants under section 5322;

''(L) $3,850,000 for each of fiscal years 2012 and 2013 shall be available to carry out section 5335;

''(M) $1,987,263,500 for each of fiscal years 2012 and 2013 shall be available to carry out subsections (c) and (e) of section 5337; and

''(N) $511,500,000 for each of fiscal years 2012 and 2013 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.

''(b) EMERGENCY RELIEF PROGRAM.—There are authorized to be appropriated such sums as are necessary to carry out section 5306.

''(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309, $1,955,000,000 for each of fiscal years 2012 and 2013.

''(d) PAUL S. SARBANES TRANSIT IN THE PARKS.—There are authorized to be appropriated to carry out section 5320, $26,900,000 for each of fiscal years 2012 and 2013.

''(e) FIXED GUIDEWAY STATE OF GOOD REPAIR GRANT PROGRAM.—There are authorized to be appropriated to carry out section 5337(d), $7,463,000 for each of fiscal years 2012 and 2013.

''(f) ADMINISTRATION.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out section 5334, $108,350,000 for each of fiscal years 2012 and 2013.

''(2) SECTION 5329.—Of the amounts authorized to be appropriated under paragraph (1), not less than $10,000,000 shall be available to carry out section 5329.

''(3) SECTION 5326.—Of the amounts made available under paragraph (2), not less than $1,000,000 shall be available to carry out section 5326.

''(g) OVERSIGHT.—

''(1) IN GENERAL.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts for the activities described in paragraph (2):

''(A) 0.5 percent of amounts made available to carry out section 5305.

''(B) 0.75 percent of amounts made available to carry out section 5307.

''(C) 1 percent of amounts made available to carry out section 5309.

''(D) 1 percent of amounts made available to carry out section 601 of the Passenger Rail Investment and Improvement Act of 2008 (Public Law 110–432; 126 Stat. 4968).

''(E) 0.5 percent of amounts made available to carry out section 5310.

''(F) 0.5 percent of amounts made available to carry out section 5311.

''(G) 0.5 percent of amounts made available to carry out section 5320.

''(H) 0.75 percent of amounts made available to carry out section 5337(c).

''(2) ACTIVITIES.—The activities described in this paragraph are as follows:

''(A) Activities to oversee the construction of a major capital project.

''(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under this chapter.

''(C) Activities to provide technical assistance generally, and to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

''(3) GOVERNMENT SHARE OF COSTS.—The Government shall pay the entire cost of carrying out a contract under this subsection.

''(4) AVAILABILITY OF CERTAIN FUNDS.—Funds made available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement.

''(h) GRANTS AS CONTRACTUAL OBLIGATIONS.—

''(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project.

''(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Government share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

''(i) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under this section shall remain available until expended.''.

SEC. 20030. APPORTIONMENTS BASED ON GROWING STATES AND HIGH DENSITY STATES FORMULA FACTORS.

Section 5340 of title 49, United States Code, is amended to read as follows:

''§ 5340. Apportionments based on growing States and high density States formula factors

''(a) DEFINITION.—In this section, the term 'State' shall mean each of the 50 States of the United States.

''(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(a)(2)(N), the Secretary shall apportion—

''(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

''(2) 50 percent to States and urbanized areas in accordance with subsection (d).

''(c) GROWING STATE APPORTIONMENTS.—

''(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

''(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

''(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

''(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

''(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

''(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

''(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

''(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

''(A) the total land area of the State (in square miles); multiplied by

''(B) 370; multiplied by

''(C)(i) the population of the State in urbanized areas; divided by

''(ii) the total population of the State.

''(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

''(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

''(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. For multistate urbanized areas, the Secretary shall suballocate funds made available under paragraph (4) to each State's part of the multistate urbanized area in proportion to the State's share of population of the multistate urbanized area. Amounts apportioned to each urbanized area shall be made available for grants under section 5307.''.

SEC. 20031. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SECTION 5305.—Section 5305 of title 49, United States Code, is amended—

(1) in subsection (c), by striking ''sections 5303, 5304, and 5306'' and inserting ''sections 5303 and 5304'';

(2) in subsection (d), by striking ''sections 5303 and 5306'' each place that term appears and inserting ''section 5303'';

(3) in subsection (e)(1)(A), by striking ''sections 5304, 5306, 5315, and 5322'' and inserting ''section 5304'';

(4) in subsection (f)—

(A) in the heading, by striking ''GOVERNMENT'S'' and inserting ''GOVERNMENT''; and

(B) by striking ''Government's'' and inserting ''Government''; and

(5) in subsection (g), by striking ''section 5338(c) for fiscal years 2005 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012'' and inserting ''section 5338(a)(2)(A) for a fiscal year''.

(b) SECTION 5313.—Section 5313(a) of title 49, United States Code, is amended—

(1) in the first sentence, by striking ''subsections (a)(5)(C)(iii) and (d)(1) of section 5338'' and inserting section ''5338(a)(2)(H)''; and

(2) in the second sentence, by striking ''of Transportation''.

(c) SECTION 5319.—Section 5319 of title 49, United States Code, is amended, in the second sentence—

(1) by striking ''sections 5307(e), 5309(h), and 5311(g) of this title'' and inserting ''sections 5307(e), 5309(k), and 5311(h)''; and

(2) by striking ''of the United States'' and inserting ''made by the''.

(d) SECTION 5325.—Section 5325 of title 49, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking ''title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation)'' and inserting ''the Federal Acquisition Regulation, or any successor thereto''; and

(2) in subsection (e), by striking ''Government financial assistance'' and inserting ''Federal financial assistance''.

(e) SECTION 5330.—Effective 3 years after the effective date of the final rules issued by the Secretary of Transportation under section 5329(e) of title 49, United States Code, as amended by this division, section 5330 of title 49, United States Code, is repealed.

(f) SECTION 5331.—Section 5331 of title 49, United States Code, is amended by striking ''Secretary of Transportation'' each place that term appears and inserting ''Secretary''.

(g) SECTION 5332.—Section 5332(c)(1) of title 49, United States Code, is amended by striking ''of Transportation''.

(h) SECTION 5333.—Section 5333(a) of title 49, United States Code, is amended by striking ''sections 3141-3144'' and inserting ''sections 3141 through 3144''.

(i) SECTION 5334.—Section 5334 of title 49, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ''Secretary of Transportation'' each place that term appears and inserting ''Secretary''; and

(B) in paragraph (1), by striking ''Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate'' and inserting ''Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives'';

(2) in subsection (d), by striking ''of Transportation'';

(3) in subsection (e), by striking ''of Transportation'';

(4) in subsection (f), by striking ''of Transportation'';

(5) in subsection (g), in the matter preceding paragraph (1)—

(A) by striking ''of Transportation''; and

(B) by striking ''subsection (a)(3) or (4) of this section'' and inserting ''paragraph (3) or (4) of subsection (a)'';

(6) in subsection (h)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking ''of Transportation''; and

(B) in paragraph (2), by striking ''of this section'';

(7) in subsection (i)(1), by striking ''of Transportation''; and

(8) in subsection (j), as so redesignated by section 20025 of this division, by striking ''Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives'' and inserting ''Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives''.

(j) SECTION 5335.—Section 5335(a) of title 49, United States Code, is amended by striking ''of Transportation''.

(k) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 49, United States Code, is amended to read as follows:

''Sec.
''5301. Policies, purposes, and goals.
''5302. Definitions.
''5303. Metropolitan transportation planning.
''5304. Statewide and nonmetropolitan transportation planning.
''5305. Planning programs.
''5306. Public transportation emergency relief program.
''5307. Urbanized area formula grants.
''5308. Clean fuel grant program.
''5309. Fixed guideway capital investment grants.
''5310. Formula grants for the enhanced mobility of seniors and individuals with disabilities.
''5311. Formula grants for other than urbanized areas.
''5312. Research, development, demonstration, and deployment projects.
''5313. Transit cooperative research program.
''5314. Technical assistance and standards development.
''5315. National Transit Institute.
''[5316. Repealed.]
''[5317. Repealed.]
''5318. Bus testing facilities.
''5319. Bicycle facilities.
''5320. Alternative transportation in parks and public lands.
''[5321. Repealed.]
''5322. Public transportation workforce development and human resource programs.
''5323. General provisions.
''[5324. Repealed.]
''5325. Contract requirements.
''5326. Transit asset management.
''5327. Project management oversight.
''[5328. Repealed.]
''5329. Public transportation safety program.
''5330. State safety oversight.
''5331. Alcohol and controlled substances testing.
''5332. Nondiscrimination.
''5333. Labor standards.
''5334. Administrative provisions.
''5335. National transit database.
''5336. Apportionment of appropriations for formula grants.
''5337. State of good repair grants.
''5338. Authorizations.
''[5339. Repealed.]
''5340. Apportionments based on growing States and high density States formula factors.''.

DIVISION C—TRANSPORTATION SAFETY AND SURFACE TRANSPORTATION POLICY

TITLE I—MOTOR VEHICLE AND HIGHWAY SAFETY IMPROVEMENT ACT OF 2012

SEC. 31001. SHORT TITLE.

This title may be cited as the ''Motor Vehicle and Highway Safety Improvement Act of 2012'' or ''Mariah's Act''.

SEC. 31002. DEFINITION.

In this title, the term ''Secretary'' means the Secretary of Transportation.

Subtitle A—Highway Safety

SEC. 31101. AUTHORIZATION OF APPROPRIATIONS.

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

(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code—

(A) $243,000,000 for fiscal year 2012; and

(B) $243,000,000 for fiscal year 2013.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code—

(A) $130,000,000 for fiscal year 2012; and

(B) $139,000,000 for fiscal year 2013.

(3) COMBINED OCCUPANT PROTECTION GRANTS.—For carrying out section 405 of title 23, United States Code—

(A) $44,000,000 for fiscal year 2012; and

(B) $44,000,000 for fiscal year 2013.

(4) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code—

(A) $44,000,000 for fiscal year 2012; and

(B) $44,000,000 for fiscal year 2013.

(5) IMPAIRED DRIVING COUNTERMEASURES.—For carrying out section 410 of title 23, United States Code—

(A) $139,000,000 for fiscal year 2012; and

(B) $139,000,000 for fiscal year 2013.

(6) DISTRACTED DRIVING GRANTS.—For carrying out section 411 of title 23, United States Code—

(A) $39,000,000 for fiscal year 2012; and

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

(7) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code—

(A) $5,000,000 for fiscal year 2012; and

(B) $5,000,000 for fiscal year 2013.

(8) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of SAFETEA–LU (23 U.S.C. 402 note)—

(A) $37,000,000 for fiscal year 2012; and

(B) $37,000,000 for fiscal year 2013.

(9) MOTORCYCLIST SAFETY.—For carrying out section 2010 of SAFETEA–LU (23 U.S.C. 402 note)—

(A) $6,000,000 for fiscal year 2012; and

(B) $6,000,000 for fiscal year 2013.

(10) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this subtitle—

(A) $25,581,280 for fiscal year 2012; and

(B) $25,862,674 for fiscal year 2013.

(11) DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.—For carrying out section 413 of title 23, United States Code—

(A) $12,000,000 for fiscal year 2012; and

(B) $12,000,000 for fiscal year 2013.

(12) STATE GRADUATED DRIVER LICENSING LAWS.—For carrying out section 414 of title 23, United States Code—

(A) $22,000,000 for fiscal year 2012; and

(B) $22,000,000 for fiscal year 2013.

(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, in this subtitle, and in the amendments made by this subtitle, the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter—

(1) shall only be used to carry out such program; and

(2) may not be used by a States or local governments for construction purposes.

(c) APPLICABILITY OF SUBTITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and in this subtitle, amounts made available under subsection (a) for fiscal years 2012 and 2013 shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(d) REGULATORY AUTHORITY.—Grants awarded under this subtitle shall be in accordance with regulations issued by the Secretary.

(e) STATE MATCHING REQUIREMENTS.—If a grant awarded under this subtitle requires a State to share in the cost, the aggregate of all expenditures for highway safety activities made during any fiscal year by the State and its political subdivisions (exclusive of Federal funds) for carrying out the grant (other than planning and administration) shall be available for the purpose of crediting the State during such fiscal year for the non-Federal share of the cost of any project under this subtitle (other than planning or administration) without regard to whether such expenditures were actually made in connection with such project.

(f) MAINTENANCE OF EFFORT.—

(1) REQUIREMENT.—No grant may be made to a State under section 405, 408, or 410 of title 23, United States Code, in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all State and local sources for programs described in such sections at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

(2) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements under paragraph (1) for not more than 1 fiscal year if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances.

(g) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraphs (3), (4), (5), (6), (9), (11), and (12) of subsection (a) to the amounts made available under paragraph (1) or any other of such paragraphs in order to ensure, to the maximum extent possible, that all funds are obligated.

(h) GRANT APPLICATION AND DEADLINE.—To receive a grant under this subtitle, a State shall submit an application, and the Secretary shall establish a single deadline for such applications to enable the award of grants early in the next fiscal year.

(i) ALLOCATION TO SUPPORT STATE DISTRACTED DRIVING LAWS.—Of the amounts available under subsection (a)(6) for distracted driving grants, the Secretary may expend, in each fiscal year, up to $5,000,000 for the development and placement of broadcast media to support the enforcement of State distracted driving laws.

SEC. 31102. HIGHWAY SAFETY PROGRAMS.

(a) PROGRAMS INCLUDED.—Section 402(a) of title 23, United States Code, is amended to read as follows:

''(a) PROGRAM REQUIRED.—

''(1) IN GENERAL.—Each State shall have a highway safety program, approved by the Secretary, that is designed to reduce traffic accidents and the resulting deaths, injuries, and property damage.

''(2) UNIFORM GUIDELINES.—Programs required under paragraph (1) shall comply with uniform guidelines, promulgated by the Secretary and expressed in terms of performance criteria, that—

''(A) include programs—

''(i) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

''(ii) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles;

''(iii) to reduce injuries and deaths resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

''(iv) to prevent accidents and reduce injuries and deaths resulting from accidents involving motor vehicles and motorcycles;

''(v) to reduce injuries and deaths resulting from accidents involving school buses;

''(vi) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles); and

''(vii) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures;

''(B) improve driver performance, including—

''(i) driver education;

''(ii) driver testing to determine proficiency to operate motor vehicles; and

''(iii) driver examinations (physical, mental, and driver licensing);

''(C) improve pedestrian performance and bicycle safety;

''(D) include provisions for—

''(i) an effective record system of accidents (including resulting injuries and deaths);

''(ii) accident investigations to determine the probable causes of accidents, injuries, and deaths;

''(iii) vehicle registration, operation, and inspection; and

''(iv) emergency services; and

''(E) to the extent determined appropriate by the Secretary, are applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.''.

(b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b)(1) of title 23, United States Code, is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) by redesignating subparagraph (E) as subparagraph (F);

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

''(E) beginning on October 1, 2012, provide for a robust, data-driven traffic safety enforcement program to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents, to the satisfaction of the Secretary;''; and

(4) in subparagraph (F), as redesignated—

(A) in clause (i), by inserting ''and high-visibility law enforcement mobilizations coordinated by the Secretary'' after ''mobilizations'';

(B) in clause (iii), by striking ''and'' at the end;

(C) in clause (iv), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(v) ensuring that the State will coordinate its highway safety plan, data collection, and information systems with the State strategic highway safety plan (as defined in section 148(a)).''.

(c) APPROVED HIGHWAY SAFETY PROGRAMS.—Section 402(c) of title 23, United States Code, is amended—

(1) by striking ''(c) Funds authorized'' and inserting the following:

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Funds authorized'';

(2) by striking ''Such funds'' and inserting the following:

''(2) APPORTIONMENT.—Except for amounts identified in subsection (l) and section 403(e), funds described in paragraph (1)'';

(3) by striking ''The Secretary shall not'' and all that follows through ''subsection, a highway safety program'' and inserting ''A highway safety program'';

(4) by inserting ''A State may use the funds apportioned under this section, in cooperation with neighboring States, for highway safety programs or related projects that may confer benefits on such neighboring States.'' after ''in every State.'';

(5) by striking ''50 per centum'' and inserting ''20 percent''; and

(6) by striking ''The Secretary shall promptly'' and all that follows and inserting the following:

''(3) REAPPORTIONMENT.—The Secretary shall promptly apportion the funds withheld from a State's apportionment to the State if the Secretary approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, not later than July 31st of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in paragraph (2) not later than the last day of the fiscal year.''.

(d) USE OF HIGHWAY SAFETY PROGRAM FUNDS.—Section 402(g) of title 23, United States Code, is amended to read as follows:

''(g) SAVINGS PROVISION.—

''(1) IN GENERAL.—Except as provided under paragraph (2), nothing in this section may be construed to authorize the appropriation or expenditure of funds for—

''(A) highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

''(B) any purpose for which funds are authorized by section 403.

''(2) DEMONSTRATION PROJECTS.—A State may use funds made available to carry out this section to assist in demonstration projects carried out by the Secretary under section 403.''.

(e) IN GENERAL.—Section 402 of title 23, United States Code, is amended—

(1) by striking subsections (k) and (m);

(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively; and

(3) by redesignating subsection (*l*) as subsection (j).

(f) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

''(k) HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall require each State to develop and submit to the Secretary a highway safety plan that complies with the requirements under this subsection not later than July 1, 2012, and annually thereafter.

''(2) CONTENTS.—State highway safety plans submitted under paragraph (1) shall include—

''(A) performance measures required by the Secretary or otherwise necessary to support additional State safety goals, including—

''(i) documentation of current safety levels for each performance measure;

''(ii) quantifiable annual performance targets for each performance measure; and

''(iii) a justification for each performance target;

''(B) a strategy for programming funds apportioned to the State under this section on projects and activities that will allow the State to meet the performance targets described in subparagraph (A);

''(C) data and data analysis supporting the effectiveness of proposed countermeasures;

''(D) a description of any Federal, State, local, or private funds that the State plans to use, in addition to funds apportioned to the State under this section, to carry out the strategy described in subparagraph (B);

''(E) beginning with the plan submitted by July 1, 2013, a report on the State's success in meeting State safety goals set forth in the previous year's highway safety plan; and

''(F) an application for any additional grants available to the State under this chapter.

''(3) PERFORMANCE MEASURES.—For the first highway safety plan submitted under this subsection, the performance measures required by the Secretary under paragraph (2)(A) shall be limited to those developed by the National Highway Traffic Safety Administration and the Governor's Highway Safety Association and described in the report, 'Traffic Safety Performance Measures for States and Federal Agencies' (DOT HS 811 025). For subsequent highway safety plans, the Secretary shall consult with the Governor's Highway Safety Association and safety experts if the Secretary makes revisions to the set of required performance measures.

''(4) REVIEW OF HIGHWAY SAFETY PLANS.—

''(A) IN GENERAL.—Not later than 60 days after the date on which a State's highway safety plan is received by the Secretary, the Secretary shall review and approve or disapprove the plan.

''(B) APPROVALS AND DISAPPROVALS.—

''(i) APPROVALS.—The Secretary shall approve a State's highway safety plan if the Secretary determines that—

''(I) the plan is evidence-based and supported by data;

''(II) the performance targets are adequate; and

''(III) the plan, once implemented, will allow the State to meet such targets.

''(ii) DISAPPROVALS.—The Secretary shall disapprove a State's highway safety plan if the Secretary determines that the plan does not—

''(I) set appropriate performance targets; or

''(II) provide for evidence-based programming of funding in a manner sufficient to allow the State to meet such targets.

''(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall—

''(i) inform the State of the reasons for such disapproval; and

''(ii) require the State to resubmit the plan with any modifications that the Secretary determines to be necessary.

''(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a State to resubmit a highway safety plan, with modifications, the Secretary shall review and approve or disapprove the modified plan not later than 30 days after the date on which the Secretary receives such plan.

''(E) REPROGRAMMING AUTHORITY.—If the Secretary determines that the modifications contained in a State's resubmitted highway safety plan do not provide for the programming of funding in a manner sufficient to meet the State's performance goals, the Secretary, in consultation with the State, shall take such action as may be necessary to

bring the State's plan into compliance with the performance targets.

''(F) PUBLIC NOTICE.—A State shall make the State's highway safety plan, and decisions of the Secretary concerning approval or disapproval of a revised plan, available to the public.''.

(g) COOPERATIVE RESEARCH AND EVALUATION.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

''(l) COOPERATIVE RESEARCH AND EVALUATION.—

''(1) ESTABLISHMENT AND FUNDING.—Notwithstanding the apportionment formula set forth in subsection (c)(2), $2,500,000 of the total amount available for apportionment to the States for highway safety programs under subsection (c) in each fiscal year shall be available for expenditure by the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, for a cooperative research and evaluation program to research and evaluate priority highway safety countermeasures.

''(2) ADMINISTRATION.—The program established under paragraph (1)—

''(A) shall be administered by the Administrator of the National Highway Traffic Safety Administration; and

''(B) shall be jointly managed by the Governors Highway Safety Association and the National Highway Traffic Safety Administration.''.

(h) TEEN TRAFFIC SAFETY PROGRAM.—Section 402 of title 23, United States Code, as amended by this section, is further amended by adding at the end the following:

''(m) TEEN TRAFFIC SAFETY PROGRAM.—

''(1) PROGRAM AUTHORIZED.—Subject to the requirements of a State's highway safety plan, as approved by the Secretary under subsection (k), a State may use a portion of the amounts received under this section to implement a statewide teen traffic safety program to improve traffic safety for teen drivers.

''(2) STRATEGIES.—The program implemented under paragraph (1)—

''(A) shall include peer-to-peer education and prevention strategies in schools and communities designed to—

''(i) increase safety belt use;

''(ii) reduce speeding;

''(iii) reduce impaired and distracted driving;

''(iv) reduce underage drinking; and

''(v) reduce other behaviors by teen drivers that lead to injuries and fatalities; and

''(B) may include—

''(i) working with student-led groups and school advisors to plan and implement teen traffic safety programs;

''(ii) providing subgrants to schools throughout the State to support the establishment and expansion of student groups focused on teen traffic safety;

''(iii) providing support, training, and technical assistance to establish and expand school and community safety programs for teen drivers;

''(iv) creating statewide or regional websites to publicize and circulate information on teen safety programs;

''(v) conducting outreach and providing educational resources for parents;

''(vi) establishing State or regional advisory councils comprised of teen drivers to provide input and recommendations to the governor and the governor's safety representative on issues related to the safety of teen drivers;

''(vii) collaborating with law enforcement;

''(viii) organizing and hosting State and regional conferences for teen drivers;

''(ix) establishing partnerships and promoting coordination among community stakeholders, including public, not-for-profit, and for profit entities; and

''(x) funding a coordinator position for the teen safety program in the State or region.''.

SEC. 31103. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

Section 403 of title 23, United States Code, is amended to read as follows:

''§ 403. Highway safety research and development

''(a) DEFINED TERM.—In this section, the term 'Federal laboratory' includes—

''(1) a government-owned, government-operated laboratory; and

''(2) a government-owned, contractor-operated laboratory.

''(b) GENERAL AUTHORITY.—

''(1) RESEARCH AND DEVELOPMENT ACTIVITIES.—The Secretary may conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information needed to carry out this section, with respect to—

''(A) all aspects of highway and traffic safety systems and conditions relating to—

''(i) vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics;

''(ii) accident causation and investigations;

''(iii) communications;

''(iv) emergency medical services; and

''(v) transportation of the injured;

''(B) human behavioral factors and their effect on highway and traffic safety, including—

''(i) driver education;

''(ii) impaired driving;

''(iii) distracted driving; and

''(iv) new technologies installed in, or brought into, vehicles;

''(C) an evaluation of the effectiveness of countermeasures to increase highway and traffic safety, including occupant protection and alcohol- and drug-impaired driving technologies and initiatives;

''(D) the development of technologies to detect drug impaired drivers; and

''(E) the effect of State laws on any aspects, activities, or programs described in subparagraphs (A) through (D).

''(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

''(A) independently;

''(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories;

''(C) by entering into contracts, cooperative agreements, and other transactions with the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, foreign country, or person (as defined in chapter 1 of title 1); or

''(D) by making grants to the National Academy of Sciences, any Federal laboratory, State or local agency, authority, association, institution, or person (as defined in chapter 1 of title 1).

''(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—To encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety related technology by private industry, the Secretary is authorized to carry out, on a cost-shared basis, collaborative research and development with—

''(A) non-Federal entities, including State and local governments, foreign countries, colleges, universities, corporations, partnerships, sole proprietorships, organizations serving the interests of children, people with disabilities, low-income populations, and older adults, and trade associations that are incorporated or established under the laws of any State or the United States; and

''(B) Federal laboratories.

''(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) in which the Secretary provides not more than 50 percent of the cost of any research or development project under this subsection.

''(3) USE OF TECHNOLOGY.—The research, development, or use of any technology pursuant to an agreement under this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

''(d) TITLE TO EQUIPMENT.—In furtherance of the purposes set forth in section 402, the Secretary may vest title to equipment purchased for demonstration projects with funds authorized under this section to State or local agencies on such terms and conditions as the Secretary determines to be appropriate.

''(e) TRAINING.—Notwithstanding the apportionment formula set forth in section 402(c)(2), 1 percent of the total amount available for apportionment to the States for highway safety programs under section 402(c) in each fiscal year shall be available, through the end of the succeeding fiscal year, to the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration—

''(1) to provide training, conducted or developed by Federal or non-Federal entity or personnel, to Federal, State, and local highway safety personnel; and

''(2) to pay for any travel, administrative, and other expenses related to such training.

''(f) DRIVER LICENSING AND FITNESS TO DRIVE CLEARINGHOUSE.—From amounts made available under this section, the Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, is authorized to expend $1,280,000 between the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012 and September 30, 2013, to establish an electronic clearinghouse and technical assistance service to collect and disseminate research and analysis of medical and technical information and best practices concerning drivers with medical issues that may be used by State driver licensing agencies in making licensing qualification decisions.

''(g) INTERNATIONAL HIGHWAY SAFETY INFORMATION AND COOPERATION.—

''(1) ESTABLISHMENT.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may establish an international highway safety information and cooperation program to—

''(A) inform the United States highway safety community of laws, projects, programs, data, and technology in foreign countries that could be used to enhance highway safety in the United States;

''(B) permit the exchange of information with foreign countries about laws, projects, programs, data, and technology that could be used to enhance highway safety; and

''(C) allow the Secretary, represented by the Administrator, to participate and cooperate in international activities to enhance highway safety.

''(2) COOPERATION.—The Secretary may carry out this subsection in cooperation with any appropriate Federal agency, State or local agency or authority, foreign government, or multinational institution.

''(h) PROHIBITION ON CERTAIN DISCLOSURES.—Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or chapter 301 shall be made available to the public in a manner that does not identify individuals.

''(i) MODEL SPECIFICATIONS FOR DEVICES.—The Secretary, acting through the Administrator of the National Highway Traffic Safety Administration, may—

''(1) develop model specifications and testing procedures for devices, including devices designed to measure the concentration of alcohol in the body;

''(2) conduct periodic tests of such devices;

''(3) publish a Conforming Products List of such devices that have met the model specifications; and

''(4) may require that any necessary tests of such devices are conducted by a Federal laboratory and paid for by the device manufacturers.''.

SEC. 31104. NATIONAL DRIVER REGISTER.

Section 30302(b) of title 49, United States Code, is amended by adding at the end the following: ''The Secretary shall make continual improvements to modernize the Register's data processing system.''.

SEC. 31105. COMBINED OCCUPANT PROTECTION GRANTS.

(a) IN GENERAL.—Section 405 of title 23, United States Code, is amended to read as follows:

''§ 405. Combined occupant protection grants

''(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement effective occupant protection programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

''(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants awarded under this section may not exceed 80 percent for each fiscal year for which a State receives a grant.

''(c) ELIGIBILITY.—

''(1) HIGH SEAT BELT USE RATE.—A State with an observed seat belt use rate of 90 percent or higher, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if the State—

''(A) submits an occupant protection plan during the first fiscal year;

''(B) participates in the Click It or Ticket national mobilization;

''(C) has an active network of child restraint inspection stations; and

''(D) has a plan to recruit, train, and maintain a sufficient number of child passenger safety technicians.

''(2) LOWER SEAT BELT USE RATE.—A State with an observed seat belt use rate below 90 percent, based on the most recent data from a survey that conforms with national criteria established by the National Highway Traffic Safety Administration, shall be eligible for a grant in a fiscal year if—

''(A) the State meets all of the requirements under subparagraphs (A) through (D) of paragraph (1); and

''(B) the Secretary determines that the State meets at least 3 of the following criteria:

''(i) The State conducts sustained (ongoing and periodic) seat belt enforcement at a defined level of participation during the year.

''(ii) The State has enacted and enforces a primary enforcement seat belt use law.

''(iii) The State has implemented countermeasure programs for high-risk populations, such as drivers on rural roadways, unrestrained nighttime drivers, or teenage drivers.

''(iv) The State has enacted and enforces occupant protection laws requiring front and rear occupant protection use by all occupants in an age-appropriate restraint.

''(v) The State has implemented a comprehensive occupant protection program in which the State has—

''(I) conducted a program assessment;

''(II) developed a statewide strategic plan;

''(III) designated an occupant protection coordinator; and

''(IV) established a statewide occupant protection task force.

''(vi) The State—

''(I) completed an assessment of its occupant protection program during the 3-year period preceding the grant year; or

''(II) will conduct such an assessment during the first year of the grant.

''(d) USE OF GRANT AMOUNTS.—Grant funds received pursuant to this section may be used to—

''(1) carry out a program to support high-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program, and law enforcement;

''(2) carry out a program to train occupant protection safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child restraints and occupant protection;

''(3) carry out a program to educate the public concerning the proper use and installation of child restraints, including related equipment and information systems;

''(4) carry out a program to provide community child passenger safety services, including programs about proper seating positions for children and how to reduce the improper use of child restraints;

''(5) purchase and distribute child restraints to low-income families if not more than 5 percent of the funds received in a fiscal year are used for this purpose;

''(6) establish and maintain information systems containing data concerning occupant protection, including the collection and administration of child passenger safety and occupant protection surveys; and

''(7) carry out a program to educate the public concerning the dangers of leaving children unattended in vehicles.

''(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.

''(f) REPORT.—A State that receives a grant under this section shall submit a report to the Secretary that documents the manner in which the grant amounts were obligated and expended and identifies the specific programs carried out with the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under chapter 4 of title 23, United States Code.

''(g) DEFINITIONS.—In this section:

''(1) CHILD RESTRAINT.—The term 'child restraint' means any device (including child safety seat, booster seat, harness, and excepting seat belts) designed for use in a motor vehicle to restrain, seat, or position children who weigh 65 pounds (30 kilograms) or less, and certified to the Federal motor vehicle safety standard prescribed by the National Highway Traffic Safety Administration for child restraints.

''(2) SEAT BELT.—The term 'seat belt' means—

''(A) with respect to open-body motor vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

''(B) with respect to other motor vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 405 and inserting the following:

''405. Combined occupant protection grants.''.

SEC. 31106. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

Section 408 of title 23, United States Code, is amended to read as follows:

''§ 408. State traffic safety information system improvements

''(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States to support the development and implementation of effective State programs that—

''(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the State safety data that is needed to identify priorities for Federal, State, and local highway and traffic safety programs;

''(2) evaluate the effectiveness of efforts to make such improvements;

''(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data;

''(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States; and

''(5) enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

''(b) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in this section may not exceed 80 percent.

''(c) ELIGIBILITY.—A State is not eligible for a grant under this section in a fiscal year unless the State demonstrates, to the satisfaction of the Secretary, that the State—

''(1) has a functioning traffic records coordinating committee (referred to in this subsection as 'TRCC') that meets at least 3 times a year;

''(2) has designated a TRCC coordinator;

''(3) has established a State traffic record strategic plan that has been approved by the TRCC and describes specific quantifiable and measurable improvements anticipated in the State's core safety databases, including crash, citation or adjudication, driver, emergency medical services or injury surveillance system, roadway, and vehicle databases;

''(4) has demonstrated quantitative progress in relation to the significant data program attribute of—

''(A) accuracy;

''(B) completeness;

''(C) timeliness;

''(D) uniformity;

''(E) accessibility; or

''(F) integration of a core highway safety database; and

''(5) has certified to the Secretary that an assessment of the State's highway safety data and traffic records system was conducted or updated during the preceding 5 years.

''(d) USE OF GRANT AMOUNTS.—Grant funds received by a State under this section shall be used for making data program improvements to core highway safety databases related to quantifiable, measurable progress in any of the 6 significant data program attributes set forth in subsection (c)(4).

''(e) GRANT AMOUNT.—The allocation of grant funds under this section to a State for

a fiscal year shall be in proportion to the State's apportionment under section 402 for fiscal year 2009.''.

SEC. 31107. IMPAIRED DRIVING COUNTERMEASURES.

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

''§ 410. Impaired driving countermeasures

''(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary of Transportation shall award grants to States that adopt and implement—

''(1) effective programs to reduce driving under the influence of alcohol, drugs, or the combination of alcohol and drugs; or

''(2) alcohol-ignition interlock laws.

''(b) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this section may not exceed 80 percent in any fiscal year in which the State receives a grant.

''(c) ELIGIBILITY.—

''(1) LOW-RANGE STATES.—Low-range States shall be eligible for a grant under this section.

''(2) MID-RANGE STATES.—A mid-range State shall be eligible for a grant under this section if—

''(A) a statewide impaired driving task force in the State developed a statewide plan during the most recent 3 calendar years to address the problem of impaired driving; or

''(B) the State will convene a statewide impaired driving task force to develop such a plan during the first year of the grant.

''(3) HIGH-RANGE STATES.—A high-range State shall be eligible for a grant under this section if the State—

''(A)(i) conducted an assessment of the State's impaired driving program during the most recent 3 calendar years; or

''(ii) will conduct such an assessment during the first year of the grant;

''(B) convenes, during the first year of the grant, a statewide impaired driving task force to develop a statewide plan that—

''(i) addresses any recommendations from the assessment conducted under subparagraph (A);

''(ii) includes a detailed plan for spending any grant funds provided under this section; and

''(iii) describes how such spending supports the statewide program;

''(C)(i) submits the statewide plan to the National Highway Traffic Safety Administration during the first year of the grant for the agency's review and approval;

''(ii) annually updates the statewide plan in each subsequent year of the grant; and

''(iii) submits each updated statewide plan for the agency's review and comment; and

''(D) appoints a full or part-time impaired driving coordinator—

''(i) to coordinate the State's activities to address enforcement and adjudication of laws to address driving while impaired by alcohol; and

''(ii) to oversee the implementation of the statewide plan.

''(d) USE OF GRANT AMOUNTS.—

''(1) REQUIRED PROGRAMS.—High-range States shall use grant funds for—

''(A) high visibility enforcement efforts; and

''(B) any of the activities described in paragraph (2) if—

''(i) the activity is described in the statewide plan; and

''(ii) the Secretary approves the use of funding for such activity.

''(2) AUTHORIZED PROGRAMS.—Medium-range and low-range States may use grant funds for—

''(A) any of the purposes described in paragraph (1);

''(B) paid and earned media in support of high visibility enforcement efforts;

''(C) hiring a full-time or part-time impaired driving coordinator of the State's activities to address the enforcement and adjudication of laws regarding driving while impaired by alcohol;

''(D) court support of high visibility enforcement efforts;

''(E) alcohol ignition interlock programs;

''(F) improving blood-alcohol concentration testing and reporting;

''(G) establishing driving while intoxicated courts;

''(H) conducting—

''(i) standardized field sobriety training;

''(ii) advanced roadside impaired driving evaluation training; and

''(iii) drug recognition expert training for law enforcement;

''(I) training and education of criminal justice professionals (including law enforcement, prosecutors, judges and probation officers) to assist such professionals in handling impaired driving cases;

''(J) traffic safety resource prosecutors;

''(K) judicial outreach liaisons;

''(L) equipment and related expenditures used in connection with impaired driving enforcement in accordance with criteria established by the National Highway Traffic Safety Administration;

''(M) training on the use of alcohol screening and brief intervention;

''(N) developing impaired driving information systems; and

''(O) costs associated with a '24-7 sobriety program'.

''(3) OTHER PROGRAMS.—Low-range States may use grant funds for any expenditure designed to reduce impaired driving based on problem identification. Medium and high-range States may use funds for such expenditures upon approval by the Secretary.

''(e) GRANT AMOUNT.—Subject to subsection (f), the allocation of grant funds to a State under this section for a fiscal year shall be in proportion to the State's apportionment under section 402(c) for fiscal year 2009.

''(f) GRANTS TO STATES THAT ADOPT AND ENFORCE MANDATORY ALCOHOL-IGNITION INTERLOCK LAWS.—

''(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that adopts and is enforcing a mandatory alcohol-ignition interlock law for all individuals convicted of driving under the influence of alcohol or of driving while intoxicated.

''(2) USE OF FUNDS.—Such grants may be used by recipient States only for costs associated with the State's alcohol-ignition interlock program, including screening, assessment, and program and offender oversight.

''(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c).

''(4) FUNDING.—Not more than 15 percent of the amounts made available to carry out this section in a fiscal year shall be made available by the Secretary for making grants under this subsection.

''(g) DEFINITIONS.—In this section:

''(1) 24-7 SOBRIETY PROGRAM.—The term '24-7 sobriety program' means a State law or program that authorizes a State court or a State agency, as a condition of sentence, probation, parole, or work permit, to—

''(A) require an individual who plead guilty or was convicted of driving under the influence of alcohol or drugs to totally abstain from alcohol or drugs for a period of time; and

''(B) require the individual to be subject to testing for alcohol or drugs—

''(i) at least twice a day;

''(ii) by continuous transdermal alcohol monitoring via an electronic monitoring device; or

''(iii) by an alternate method with the concurrence of the Secretary.

''(2) AVERAGE IMPAIRED DRIVING FATALITY RATE.—The term 'average impaired driving fatality rate' means the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration of at least 0.08 for every 100,000,000 vehicle miles traveled, based on the most recently reported 3 calendar years of final data from the Fatality Analysis Reporting System, as calculated in accordance with regulations prescribed by the Administrator of the National Highway Traffic Safety Administration.

''(3) HIGH-RANGE STATE.—The term 'high-range State' means a State that has an average impaired driving fatality rate of 0.60 or higher.

''(4) LOW-RANGE STATE.—The term 'low-range State' means a State that has an average impaired driving fatality rate of 0.30 or lower.

''(5) MID-RANGE STATE.—The term 'mid-range State' means a State that has an average impaired driving fatality rate that is higher than 0.30 and lower than 0.60.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 410 and inserting the following:

''410. Impaired driving countermeasures.''.

SEC. 31108. DISTRACTED DRIVING GRANTS.

(a) IN GENERAL.—Section 411 of title 23, United States Code, is amended to read as follows:

''§ 411. Distracted driving grants

''(a) IN GENERAL.—The Secretary shall award a grant under this section to any State that enacts and enforces a statute that meets the requirements set forth in subsections (b) and (c).

''(b) PROHIBITION ON TEXTING WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

''(1) prohibits drivers from texting through a personal wireless communications device while driving;

''(2) makes violation of the statute a primary offense;

''(3) establishes—

''(A) a minimum fine for a first violation of the statute; and

''(B) increased fines for repeat violations; and

''(4) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

''(c) PROHIBITION ON YOUTH CELL PHONE USE WHILE DRIVING.—A State statute meets the requirements set forth in this subsection if the statute—

''(1) prohibits a driver who is younger than 18 years of age from using a personal wireless communications device while driving;

''(2) makes violation of the statute a primary offense;

''(3) requires distracted driving issues to be tested as part of the State driver's license examination;

''(4) establishes—

''(A) a minimum fine for a first violation of the statute; and

''(B) increased fines for repeat violations; and

''(5) provides increased civil and criminal penalties than would otherwise apply if a vehicle accident is caused by a driver who is using such a device in violation of the statute.

''(d) PERMITTED EXCEPTIONS.—A statute that meets the requirements set forth in subsections (b) and (c) may provide exceptions for—

''(1) a driver who uses a personal wireless communications device to contact emergency services;

''(2) emergency services personnel who use a personal wireless communications device while—

''(A) operating an emergency services vehicle; and

''(B) engaged in the performance of their duties as emergency services personnel; and

''(3) an individual employed as a commercial motor vehicle driver or a school bus driver who uses a personal wireless communications device within the scope of such individual's employment if such use is permitted under the regulations promulgated pursuant to section 31152 of title 49.

''(e) USE OF GRANT FUNDS.—Of the grant funds received by a State under this section—

''(1) at least 50 percent shall be used—

''(A) to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving;

''(B) for traffic signs that notify drivers about the distracted driving law of the State; or

''(C) for law enforcement costs related to the enforcement of the distracted driving law; and

''(2) up to 50 percent may be used for other projects that—

''(A) improve traffic safety; and

''(B) are consistent with the criteria set forth in section 402(a).

''(f) ADDITIONAL GRANTS.—In fiscal year 2012, the Secretary may use up to 25 percent of the funding available for grants under this section to award grants to States that—

''(1) enacted statutes before July 1, 2011, which meet the requirements under paragraphs (1) and (2) of subsection (b); and

''(2) are otherwise ineligible for a grant under this section.

''(g) DISTRACTED DRIVING STUDY.—

''(1) IN GENERAL.—The Secretary shall conduct a study of all forms of distracted driving.

''(2) COMPONENTS.—The study conducted under paragraph (1) shall—

''(A) examine the effect of distractions other than the use of personal wireless communications on motor vehicle safety;

''(B) identify metrics to determine the nature and scope of the distracted driving problem;

''(C) identify the most effective methods to enhance education and awareness; and

''(D) identify the most effective method of reducing deaths and injuries caused by all forms of distracted driving.

''(3) REPORT.—Not later than 1 year after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, the Secretary shall submit a report containing the results of the study conducted under this subsection to—

''(A) the Committee on Commerce, Science, and Transportation of the Senate; and

''(B) the Committee on Transportation and Infrastructure of the House of Representatives.

''(h) DEFINITIONS.—In this section:

''(1) DRIVING.—The term 'driving'—

''(A) means operating a motor vehicle on a public road, including operation while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise; and

''(B) does not include operating a motor vehicle when the vehicle has pulled over to the side of, or off, an active roadway and has stopped in a location where it can safely remain stationary.

''(2) PERSONAL WIRELESS COMMUNICATIONS DEVICE.—The term 'personal wireless communications device'—

''(A) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

''(B) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

''(3) PRIMARY OFFENSE.—The term 'primary offense' means an offense for which a law enforcement officer may stop a vehicle solely for the purpose of issuing a citation in the absence of evidence of another offense.

''(4) PUBLIC ROAD.—The term 'public road' has the meaning given that term in section 402(c).

''(5) TEXTING.—The term 'texting' means reading from or manually entering data into a personal wireless communications device, including doing so for the purpose of SMS texting, e-mailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by striking the item relating to section 411 and inserting the following:

''411. Distracted driving grants.''.

SEC. 31109. HIGH VISIBILITY ENFORCEMENT PROGRAM.

Section 2009 of SAFETEA–LU (23 U.S.C. 402 note) is amended—

(1) in subsection (a)—

(A) by striking ''at least 2'' and inserting ''at least 3''; and

(B) by striking ''years 2006 through 2012.'' and inserting ''fiscal years 2012 and 2013. The Administrator may also initiate and support additional campaigns in each of fiscal years 2012 and 2013 for the purposes specified in subsection (b).'';

(2) in subsection (b) by striking ''either or both'' and inserting ''outcomes related to at least 1'';

(3) in subsection (c), by inserting ''and Internet-based outreach'' after ''print media advertising'';

(4) in subsection (e), by striking ''subsections (a), (c), and (f)'' and inserting ''subsection (c)'';

(5) by striking subsection (f); and

(6) by redesignating subsection (g) as subsection (f).

SEC. 31110. MOTORCYCLIST SAFETY.

Section 2010 of SAFETEA–LU (23 U.S.C. 402 note) is amended—

(1) by striking subsections (b) and (g);

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (c)(1), as redesignated, by striking ''to the satisfaction of the Secretary—'' and all that follows and inserting '', to the satisfaction of the Secretary, at least 2 of the 6 criteria listed in paragraph (2).''.

SEC. 31111. DRIVER ALCOHOL DETECTION SYSTEM FOR SAFETY RESEARCH.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''§ 413. In-vehicle alcohol detection device research

''(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall carry out a collaborative research effort under chapter 301 of title 49, United States Code, to continue to explore the feasibility and the potential benefits of, and the public policy challenges associated with, more widespread deployment of in-vehicle technology to prevent alcohol-impaired driving.

''(b) REPORTS.—The Administrator shall submit a report annually to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

''(1) describing progress in carrying out the collaborative research effort; and

''(2) including an accounting for the use of Federal funds obligated or expended in carrying out that effort.

''(c) DEFINITIONS.—In this title:

''(1) ALCOHOL-IMPAIRED DRIVING.—The term 'alcohol-impaired driving' means operation of a motor vehicle (as defined in section 30102(a)(6) of title 49, United States Code) by an individual whose blood alcohol content is at or above the legal limit.

''(2) LEGAL LIMIT.—The term 'legal limit' means a blood alcohol concentration of 0.08 percent or greater (as specified by chapter 163 of title 23, United States Code) or such other percentage limitation as may be established by applicable Federal, State, or local law.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by inserting after the item relating to section 412 the following:

''413. In-vehicle alcohol detection device research.''.

SEC. 31112. STATE GRADUATED DRIVER LICENSING LAWS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, as amended by this title, is further amended by adding at the end the following:

''§ 414. State Graduated Driver Licensing Incentive Grant

''(a) GRANTS AUTHORIZED.—Subject to the requirements of this section, the Secretary shall award grants to States that adopt and implement graduated driver licensing laws in accordance with the requirements set forth in subsection (b).

''(b) MINIMUM REQUIREMENTS.—

''(1) IN GENERAL.—A State meets the requirements set forth in this subsection if the State has a graduated driver licensing law that requires novice drivers younger than 21 years of age to comply with the 2-stage licensing process described in paragraph (2) before receiving an unrestricted driver's license.

''(2) LICENSING PROCESS.—A State is in compliance with the 2-stage licensing process described in this paragraph if the State's driver's license laws include—

''(A) a learner's permit stage that—

''(i) is at least 6 months in duration;

''(ii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation; and

''(iii) remains in effect until the driver—

''(I) reaches 16 years of age and enters the intermediate stage; or

''(II) reaches 18 years of age;

''(B) an intermediate stage that—

''(i) commences immediately after the expiration of the learner's permit stage;

''(ii) is at least 6 months in duration;

''(iii) prohibits the driver from using a cellular telephone or any communications device in a nonemergency situation;

''(iv) restricts driving at night;

''(v) prohibits the driver from operating a motor vehicle with more than 1 nonfamilial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle; and

''(vi) remains in effect until the driver reaches 18 years of age; and

''(C) any other requirement prescribed by the Secretary of Transportation, including—

''(i) in the learner's permit stage—

''(I) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age;

''(II) a driver training course; and

''(III) a requirement that the driver be accompanied and supervised by a licensed driver, who is at least 21 years of age, at all times while such driver is operating a motor vehicle; and

''(ii) in the learner's permit or intermediate stage, a requirement, in addition to any other penalties imposed by State law, that the grant of an unrestricted driver's license be automatically delayed for any individual who, during the learner's permit or intermediate stage, is convicted of a driving-related offense, including—

''(I) driving while intoxicated;

''(II) misrepresentation of his or her true age;

''(III) reckless driving;

''(IV) driving without wearing a seat belt;

''(V) speeding; or

''(VI) any other driving-related offense, as determined by the Secretary.

''(c) RULEMAKING.—

''(1) IN GENERAL.—The Secretary shall promulgate regulations necessary to implement the requirements under subsection (b), in accordance with the notice and comment provisions under section 553 of title 5, United States Code.

''(2) EXCEPTION.—A State that otherwise meets the minimum requirements set forth in subsection (b) shall be deemed by the Secretary to be in compliance with the requirement set forth in subsection (b) if the State enacted a law before January 1, 2011, establishing a class of license that permits licensees or applicants younger than 18 years of age to drive a motor vehicle—

''(A) in connection with work performed on, or for the operation of, a farm owned by family members who are directly related to the applicant or licensee; or

''(B) if demonstrable hardship would result from the denial of a license to the licensees or applicants.

''(d) ALLOCATION.—Grant funds allocated to a State under this section for a fiscal year shall be in proportion to a State's apportionment under section 402 for such fiscal year.

''(e) USE OF FUNDS.—Grant funds received by a State under this section may be used for—

''(1) enforcing a 2-stage licensing process that complies with subsection (b)(2);

''(2) training for law enforcement personnel and other relevant State agency personnel relating to the enforcement described in paragraph (1);

''(3) publishing relevant educational materials that pertain directly or indirectly to the State graduated driver licensing law;

''(4) carrying out other administrative activities that the Secretary considers relevant to the State's 2-stage licensing process; and

''(5) carrying out a teen traffic safety program described in section 402(m).''.

SEC. 31113. AGENCY ACCOUNTABILITY.

Section 412 of title 23, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

''(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—

''(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall conduct a review of each State highway safety program at least once every 3 years.

''(2) EXCEPTIONS.—The Secretary may conduct reviews of the highway safety programs of the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands as often as the Secretary determines to be appropriate.

''(3) COMPONENTS.—Reviews under this subsection shall include—

''(A) a management evaluation of all grant programs funded under this chapter;

''(B) an assessment of State data collection and evaluation relating to performance measures established by the Secretary;

''(C) a comparison of State efforts under subparagraphs (A) and (B) to best practices and programs that have been evaluated for effectiveness; and

''(D) the development of recommendations on how each State could—

''(i) improve the management and oversight of its grant activities; and

''(ii) provide a management and oversight plan for such grant programs.''; and

(2) by striking subsection (f).

SEC. 31114. EMERGENCY MEDICAL SERVICES.

Section 10202 of Public Law 109–59 (42 U.S.C. 300d–4), is amended by adding at the end the following:

''(b) NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL.—

''(1) ESTABLISHMENT.—The Secretary of Transportation, in coordination with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall establish a National Emergency Medical Services Advisory Council (referred to in this subsection as the 'Advisory Council').

''(2) MEMBERSHIP.—The Advisory Council shall be composed of 25 members, who—

''(A) shall be appointed by the Secretary of Transportation; and

''(B) shall collectively be representative of all sectors of the emergency medical services community.

''(3) PURPOSES.—The purposes of the Advisory Council are to advise and consult with—

''(A) the Federal Interagency Committee on Emergency Medical Services on matters relating to emergency medical services issues; and

''(B) the Secretary of Transportation on matters relating to emergency medical services issues affecting the Department of Transportation.

''(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration shall provide administrative support to the Advisory Council, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

''(5) LEADERSHIP.—The members of the Advisory Council shall annually select a chairperson of the Council.

''(6) MEETINGS.—The Advisory Council shall meet as frequently as is determined necessary by the chairperson of the Council.

''(7) ANNUAL REPORTS.—The Advisory Council shall prepare an annual report to the Secretary of Transportation regarding the Council's actions and recommendations.''.

Subtitle B—Enhanced Safety Authorities

SEC. 31201. DEFINITION OF MOTOR VEHICLE EQUIPMENT.

Section 30102(a)(7)(C) of title 49, United States Code, is amended to read as follows:

''(C) any device or an article or apparel, including a motorcycle helmet and excluding medicine or eyeglasses prescribed by a licensed practitioner, that—

''(i) is not a system, part, or component of a motor vehicle; and

''(ii) is manufactured, sold, delivered, or offered to be sold for use on public streets, roads, and highways with the apparent purpose of safeguarding motor vehicles and highway users against risk of accident, injury, or death.''.

SEC. 31202. PERMIT REMINDER SYSTEM FOR NON-USE OF SAFETY BELTS.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended—

(1) in section 30122, by striking subsection (d); and

(2) by amending section 30124 to read as follows:

''§ 30124. Nonuse of safety belts

''A motor vehicle safety standard prescribed under this chapter may not require a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 301 of title 49, United States Code, is amended by striking the item relating to section 30124 and inserting the following:

''Sec. 30124. Nonuse of safety belts.''.

SEC. 31203. CIVIL PENALTIES.

(a) IN GENERAL.—Section 30165 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''30123(d)'' and inserting ''30123(a)''; and

(ii) by striking ''$15,000,000'' and inserting ''$250,000,000''; and

(B) in paragraph (3), by striking ''$15,000,000'' and inserting ''$250,000,000''; and

(2) by amending subsection (c) to read as follows:

''(c) RELEVANT FACTORS IN DETERMINING AMOUNT OF PENALTY OR COMPROMISE.—In determining the amount of a civil penalty or compromise under this section, the Secretary of Transportation shall consider the nature, circumstances, extent, and gravity of the violation. Such determination shall include, as appropriate—

''(1) the nature of the defect or noncompliance;

''(2) knowledge by the person charged of its obligation to recall or notify the public;

''(3) the severity of the risk of injury;

''(4) the occurrence or absence of injury;

''(5) the number of motor vehicles or items of motor vehicle equipment distributed with the defect or noncompliance;

''(6) the existence of an imminent hazard;

''(7) actions taken by the person charged to identify, investigate, or mitigate the condition;

''(8) the appropriateness of such penalty in relation to the size of the business of the person charged, including the potential for undue adverse economic impacts;

''(9) whether the person has previously been assessed civil penalties under this section during the most recent 5 years; and

''(10) other appropriate factors.''.

(b) CIVIL PENALTY CRITERIA.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue a final rule, in accordance with the procedures of section 553 of title 5, United States Code, which provides an interpretation of the penalty factors described in section 30165(c) of title 49, United States Code.

(c) CONSTRUCTION.—Nothing in this section may be construed as preventing the imposition of penalties under section 30165 of title 49, United States Code, before the issuance of a final rule under subsection (b).

SEC. 31204. MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

''§ 30181. Policy

''The Secretary of Transportation shall conduct research, development, and testing on any area or aspect of motor vehicle safety necessary to carry out this chapter.

''§ 30182. Powers and duties

''(a) IN GENERAL.—The Secretary of Transportation shall—

''(1) conduct motor vehicle safety research, development, and testing programs and activities, including new and emerging technologies that impact or may impact motor vehicle safety;

''(2) collect and analyze all types of motor vehicle and highway safety data and related information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

''(A) accidents involving motor vehicles; and

''(B) deaths or personal injuries resulting from those accidents;

''(3) promote, support, and advance the education and training of motor vehicle safety staff of the National Highway Traffic Safety Administration, including using program funds for—

''(A) planning, implementing, conducting, and presenting results of program activities; and

''(B) travel and related expenses;

''(4) obtain experimental and other motor vehicles and motor vehicle equipment for research or testing;

''(5)(A) use any test motor vehicles and motor vehicle equipment suitable for continued use, as determined by the Secretary to assist in carrying out this chapter or any other chapter of this title; or

''(B) sell or otherwise dispose of test motor vehicles and motor vehicle equipment and use the resulting proceeds to carry out this chapter;

''(6) award grants to States and local governments, interstate authorities, and nonprofit institutions; and

''(7) enter into cooperative agreements, collaborative research, or contracts with Federal agencies, interstate authorities, State and local governments, other public entities, private organizations and persons, nonprofit institutions, colleges and universities, consumer advocacy groups, corporations, partnerships, sole proprietorships, trade associations, Federal laboratories (including government-owned, government-operated laboratories and government-owned, contractor-operated laboratories), and foreign governments and research organizations.

''(b) USE OF PUBLIC AGENCIES.—In carrying out this subchapter, the Secretary shall avoid duplication by using the services, research, and testing facilities of public agencies, as appropriate.

''(c) FACILITIES.—The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety.

''(d) AVAILABILITY OF INFORMATION, PATENTS, AND DEVELOPMENTS.—When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public without charge. The owner of a background patent may not be deprived of a right under the patent.

''§ 30183. Prohibition on certain disclosures.

''Any report of the National Highway Traffic Safety Administration, or of any officer, employee, or contractor of the National Highway Traffic Safety Administration, relating to any highway traffic accident or the investigation of such accident conducted pursuant to this chapter or section 403 of title 23, shall be made available to the public in a manner that does not identify individuals.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—MOTOR VEHICLE SAFETY RESEARCH AND DEVELOPMENT

''30181. Policy.
''30182. Powers and duties.
''30183. Prohibition on certain disclosures.''.

(2) DELETION OF REDUNDANT MATERIAL.—Chapter 301 of title 49, United States Code, is amended—

(A) in the chapter analysis, by striking the item relating to section 30168; and

(B) by striking section 30168.

SEC. 31205. RENTAL TRUCK ACCIDENT STUDY.

(a) DEFINITIONS.—In this section:

(1) RENTAL TRUCK.—The term ''rental truck'' means a motor vehicle with a gross vehicle weight rating of between 10,000 and 26,000 pounds that is made available for rental by a rental truck company.

(2) RENTAL TRUCK COMPANY.—The term ''rental truck company'' means a person or company that is in the business of renting or leasing rental trucks to the public or for private use.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the safety of rental trucks during the 7-year period ending on December 31, 2011.

(2) REQUIREMENTS.—The study conducted under paragraph (1) shall—

(A) evaluate available data on the number of crashes, fatalities, and injuries involving rental trucks and the cause of such crashes, utilizing police accident reports and other sources;

(B) estimate the property damage and costs resulting from a subset of crashes involving rental truck operations, which the Secretary believes adequately reflect all crashes involving rental trucks;

(C) analyze State and local laws regulating rental truck companies, including safety and inspection requirements;

(D) assess the rental truck maintenance programs of a selection of small, medium, and large rental truck companies, as selected by the Secretary, including the frequency of rental truck maintenance inspections, and compare such programs with inspection requirements for passenger vehicles and commercial motor vehicles;

(E) include any other information available regarding the safety of rental trucks; and

(F) review any other information that the Secretary determines to be appropriate.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(1) the findings of the study conducted pursuant to subsection (b); and

(2) any recommendations for legislation that the Secretary determines to be appropriate.

SEC. 31206. ODOMETER REQUIREMENTS.

(a) DEFINITION.—Section 32702(5) of title 49, United States Code, is amended by inserting ''or system of components'' after ''instrument''.

(b) ELECTRONIC DISCLOSURES OF ODOMETER INFORMATION.—Section 32705 of title 49, United States Code, is amended by adding at the end the following:

''(g) ELECTRONIC DISCLOSURES.—Not later than 18 months after the date of enactment of the Motor Vehicle and Highway Safety Improvement Act of 2012, in carrying out this section, the Secretary shall prescribe regulations permitting any written disclosures or notices and related matters to be provided electronically.''.

SEC. 31207. INCREASED PENALTIES AND DAMAGES FOR ODOMETER FRAUD.

Chapter 327 of title 49, United States Code, is amended—

(1) in section 32709(a)(1)—

(A) by striking ''$2,000'' and inserting ''$10,000''; and

(B) by striking ''$100,000'' and inserting ''$1,000,000''; and

(2) in section 32710(a), by striking ''$1,500'' and inserting ''$10,000''.

SEC. 31208. EXTEND PROHIBITIONS ON IMPORTING NONCOMPLIANT VEHICLES AND EQUIPMENT TO DEFECTIVE VEHICLES AND EQUIPMENT.

Section 30112 of title 49, United States Code, is amended—

(1) in subsection (a), by adding at the end the following:

''(3) Except as provided in this section, section 30114, subsections (i) and (j) of section 30120, and subchapter III, a person may not sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States any motor vehicle or motor vehicle equipment if the vehicle or equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b). Nothing in this paragraph may be construed to prohibit the importation of a new motor vehicle that receives a required recall remedy before being sold to a consumer in the United States.''; and

(2) in subsection (b)(2)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(C) having no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment contains a defect related to motor vehicle safety about which notice was given under section 30118(c) or an order was issued under section 30118(b);''.

SEC. 31209. FINANCIAL RESPONSIBILITY REQUIREMENTS FOR IMPORTERS.

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to subchapter III and inserting the following:

''SUBCHAPTER III—IMPORTING MOTOR VEHICLES AND EQUIPMENT'';

(2) in the heading for subchapter III, by striking ''NONCOMPLYING''; and

(3) in section 30147, by amending subsection (b) to read as follows:

''(b) FINANCIAL RESPONSIBILITY REQUIREMENT.—

''(1) RULEMAKING.—The Secretary of Transportation may issue regulations requiring each person that imports a motor vehicle or motor vehicle equipment into the customs territory of the United States, including a registered importer (or any successor in interest), provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under section 30117(b), sections 30118 through 30121, and section 30166(f). In making a determination of sufficient financial responsibility under this Rule, the Secretary, to avoid duplicative requirements, shall first, to the extent practicable, rely on existing reporting and recordkeeping requirements and other information available to the Secretary, and shall coordinate with other Federal agencies, including the Securities and Exchange Commission, to access information collected and made publicly available under existing reporting and recordkeeping requirements.

''(2) REFUSAL OF ADMISSION.—If the Secretary of Transportation believes that a person described in paragraph (1) has not provided and maintained evidence of sufficient financial responsibility to meet the obligations referred to in paragraph (1), the Secretary of Homeland Security shall first offer the person an opportunity to remedy the deficiency within 30 days, and if not remedied thereafter may refuse the admission into the customs territory of the United States of any motor vehicle or motor vehicle equipment imported by the person.

''(3) EXCEPTION.—This subsection shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the —

''(A) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards;

''(B) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

''(C) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.''.

SEC. 31210. CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT.

Chapter 301 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 30164 and inserting the following:

''30164. Service of process; conditions on importation of vehicles and equipment.'';

and

(2) in section 30164—

(A) in the section heading, by adding ''**; CONDITIONS ON IMPORTATION OF VEHICLES AND EQUIPMENT**'' at the end; and

(B) by adding at the end the following:

''(c) IDENTIFYING INFORMATION.—A manufacturer (including an importer) offering a motor vehicle or motor vehicle equipment for import shall provide such information as the Secretary may, by rule, request including—

''(1) the product by name and the manufacturer's address; and

''(2) each retailer or distributor to which the manufacturer directly supplied motor vehicles or motor vehicle equipment over which the Secretary has jurisdiction under this chapter.

''(d) RULEMAKING.—In issuing a rulemaking, the Secretary shall seek to reduce duplicative requirements by coordinating with Department of Homeland Security. The Secretary may issue regulations that—

''(1) condition the import of a motor vehicle or motor vehicle equipment on the manufacturer's compliance with—

''(A) the requirements under this section;

''(B) any rules issued with respect to such requirements; or

''(C) any other requirements under this chapter or rules issued with respect to such requirements;

''(2) provide an opportunity for the manufacturer to present information before the Secretary's determination as to whether the manufacturer's imports should be restricted; and

''(3) establish a process by which a manufacturer may petition for reinstatement of its ability to import motor vehicles or motor vehicle equipment.

''(e) EXCEPTION.—The requirements of subsections (c) and (d) shall not apply to original manufacturers (or wholly owned subsidiaries) of motor vehicles that, prior to the date of enactment of the —

''(1) have imported motor vehicles into the United States that are certified to comply with all applicable Federal motor vehicle safety standards,

''(2) have submitted to the Secretary appropriate manufacturer identification information under part 566 of title 49, Code of Federal Regulations; and

''(3) if applicable, have identified a current agent for service of process in accordance with part 551 of title 49, Code of Federal Regulations.''.

SEC. 31211. PORT INSPECTIONS; SAMPLES FOR EXAMINATION OR TESTING.

Section 30166(c) of title 49, United States Code, is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting ''(including at United States ports of entry)'' after ''held for introduction in interstate commerce''; and

(B) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(4) shall enter into a memorandum of understanding with the Secretary of Homeland Security for inspections and sampling of motor vehicle equipment being offered for import to determine compliance with this chapter or a regulation or order issued under this chapter.''.

Subtitle C—Transparency and Accountability

SEC. 31301. IMPROVED NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION VEHICLE SAFETY DATABASE.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall improve public accessibility to information on the National Highway Traffic Safety Administration's publicly accessible vehicle safety databases by—

(1) improving organization and functionality, including modern web design features, and allowing for data to be searched, aggregated, and downloaded;

(2) providing greater consistency in presentation of vehicle safety issues; and

(3) improving searchability about specific vehicles and issues through standardization of commonly used search terms.

(b) VEHICLE RECALL INFORMATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall require that motor vehicle safety recall information—

(A) is available to the public on the Internet;

(B) is searchable by vehicle make and model and vehicle identification number;

(C) is in a format that preserves consumer privacy; and

(D) includes information about each recall that has not been completed for each vehicle.

(2) RULEMAKING.—The Secretary may initiate a rulemaking proceeding to require each manufacturer to provide the information described in paragraph (1), with respect to that manufacturer's motor vehicles, at no cost on a publicly accessible Internet website.

(3) DATABASE AWARENESS PROMOTION ACTIVITIES.—The Secretary, in consultation with the heads of other relevant agencies, shall promote consumer awareness of the information made available to the public pursuant to this subsection.

SEC. 31302. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HOTLINE FOR MANUFACTURER, DEALER, AND MECHANIC PERSONNEL.

The Secretary shall—

(1) establish a means by which mechanics, passenger motor vehicle dealership personnel, and passenger motor vehicle manufacturer personnel may directly and confidentially contact the National Highway Traffic Safety Administration to report potential passenger motor vehicle safety defects; and

(2) publicize the means for contacting the National Highway Traffic Safety Administration in a manner that targets mechanics, passenger motor vehicle dealership personnel, and manufacturer personnel.

SEC. 31303. CONSUMER NOTICE OF SOFTWARE UPDATES AND OTHER COMMUNICATIONS WITH DEALERS.

(a) INTERNET ACCESSIBILITY.—Section 30166(f) of title 49, United States Code, is amended—

(1) by striking ''A manufacturer shall give the Secretary of Transportation'' and inserting the following:

''(1) IN GENERAL.—A manufacturer shall give the Secretary of Transportation, and make available on a publicly accessible Internet website,''; and

(2) by adding at the end the following:

''(2) NOTICES.—Communications required to be submitted to the Secretary and made available on a publicly accessible Internet website under this subsection shall include all notices to dealerships of software upgrades and modifications recommended by a manufacturer for all previously sold vehicles. Notice is required even if the software upgrade or modification is not related to a safety defect or noncompliance with a motor vehicle safety standard. The notice shall include a plain language description of the purpose of the update and that description shall be prominently placed at the beginning of the notice.

''(3) INDEX.—Communications required to be submitted to the Secretary under this subsection shall be accompanied by an index to each communication, which—

''(A) identifies the make, model, and model year of the affected vehicles;

''(B) includes a concise summary of the subject matter of the communication; and

''(C) shall be made available by the Secretary to the public on the Internet in a searchable format.''.

SEC. 31304. PUBLIC AVAILABILITY OF EARLY WARNING DATA.

Section 30166(m) of title 49, United States Code, is amended in paragraph (4), by amending subparagraph (C) to read as follows:

''(C) DISCLOSURE.—

''(i) IN GENERAL.—The information provided to the Secretary pursuant to this subsection shall be disclosed publicly unless exempt from disclosure under section 552(b) of title 5.

''(ii) PRESUMPTION.—In administering this subparagraph, the Secretary shall presume in favor of maximum public availability of information.''.

SEC. 31305. CORPORATE RESPONSIBILITY FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION REPORTS.

(a) IN GENERAL.—Section 30166 of title 49, United States Code, is amended by adding at the end the following:

''(o) CORPORATE RESPONSIBILITY FOR REPORTS.—

''(1) IN GENERAL.—The Secretary shall require a senior official responsible for safety in each company submitting information to the Secretary in response to a request for information in a safety defect or compliance investigation under this chapter to certify that—

''(A) the signing official has reviewed the submission; and

''(B) based on the official's knowledge, the submission does not—

''(i) contain any untrue statement of a material fact; or

''(ii) omit to state a material fact necessary in order to make the statements made not misleading, in light of the circumstances under which such statements were made.

''(2) NOTICE.—The certification requirements of this section shall be clearly stated on any request for information under paragraph (1).''.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, is amended—

(1) in paragraph (3), by striking ''A person'' and inserting ''Except as provided in paragraph (4), a person''; and

(2) by adding at the end the following:

''(4) FALSE, MISLEADING, OR INCOMPLETE REPORTS.—A person who knowingly and willfully submits materially false, misleading, or incomplete information to the Secretary, after certifying the same information as accurate and complete under the certification process established pursuant to section 30166(o), shall be subject to a civil penalty of not more than $5,000 per day. The maximum penalty under this paragraph for a related series of daily violations is $5,000,000.''.

SEC. 31306. PASSENGER MOTOR VEHICLE INFORMATION PROGRAM.

(a) DEFINITION.—Section 32301 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) 'crash avoidance' means preventing or mitigating a crash;''; and

(3) in paragraph (2), as redesignated, by striking the period at the end and inserting ''; and''.

(b) INFORMATION INCLUDED.—Section 32302(a) of title 49, United States Code, is amended—

(1) in paragraph (2), by inserting '', crash avoidance, and any other areas the Secretary determines will improve the safety of passenger motor vehicles'' after ''crashworthiness''; and

(2) by striking paragraph (4).

SEC. 31307. PROMOTION OF VEHICLE DEFECT REPORTING.

Section 32302 of title 49, United States Code, is amended by adding at the end the following:

''(d) MOTOR VEHICLE DEFECT REPORTING INFORMATION.—

''(1) RULEMAKING REQUIRED.—Not later than 1 year after the date of the enactment of the , the Secretary shall prescribe regulations that require passenger motor vehicle manufacturers—

''(A) to affix, in the glove compartment or in another readily accessible location on the vehicle, a sticker, decal, or other device that provides, in simple and understandable language, information about how to submit a safety-related motor vehicle defect complaint to the National Highway Traffic Safety Administration;

''(B) to prominently print the information described in subparagraph (A) on a separate page within the owner's manual; and

''(C) to not place such information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

''(2) APPLICATION.—The requirements under paragraph (1) shall apply to passenger motor vehicles manufactured in any model year beginning more than 1 year after the date on which a final rule is published under paragraph (1).''.

SEC. 31308. WHISTLEBLOWER PROTECTIONS FOR MOTOR VEHICLE MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIP EMPLOYEES.

(a) IN GENERAL.—Subchapter IV of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''§ 30171. Protection of employees providing motor vehicle safety information

''(a) DISCRIMINATION AGAINST EMPLOYEES OF MANUFACTURERS, PART SUPPLIERS, AND DEALERSHIPS.—No motor vehicle manufacturer, part supplier, or dealership may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or the Secretary of Transportation information relating to any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

''(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any motor vehicle defect, noncompliance, or any violation or alleged violation of any notification or reporting requirement of this chapter;

''(3) testified or is about to testify in such a proceeding;

''(4) assisted or participated or is about to assist or participate in such a proceeding; or

''(5) objected to, or refused to participate in, any activity that the employee reasonably believed to be in violation of any provision of any Act enforced by the Secretary of Transportation, or any order, rule, regulation, standard, or ban under any such Act.

''(b) COMPLAINT PROCEDURE.—

''(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (hereinafter in this section referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

''(2) INVESTIGATION; PRELIMINARY ORDER.—

''(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B) REQUIREMENTS.—

''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (5) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3) FINAL ORDER.—

''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

''(i) to take affirmative action to abate the violation;

''(ii) to reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) to provide compensatory damages to the complainant.

''(C) ATTORNEYS' FEES.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, bringing the complaint upon which the order was issued.

''(D) FRIVOLOUS COMPLAINTS.—If the Secretary determines that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

''(E) DE NOVO REVIEW.—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo review in the appropriate district

court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to the action, be tried by the court with a jury. The action shall be governed by the same legal burdens of proof specified in paragraph (2)(B) for review by the Secretary of Labor.

''(4) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review shall be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(5) ENFORCEMENT OF ORDER BY SECRETARY.—Whenever any person fails to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief and compensatory damages.

''(6) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

''(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a motor vehicle manufacturer, part supplier, or dealership who, acting without direction from such motor vehicle manufacturer, part supplier, or dealership (or such person's agent), deliberately causes a violation of any requirement relating to motor vehicle safety under this chapter.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30170 the following:

''30171. Protection of employees providing motor vehicle safety information.''.

SEC. 31309. ANTI-REVOLVING DOOR.

(a) AMENDMENT.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

''§ 30107. Restriction on covered motor vehicle safety officials

''(a) IN GENERAL.—During the 2-year period after the termination of his or her service or employment, a covered vehicle safety official may not knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of the National Highway Traffic Safety Administration on behalf of any manufacturer subject to regulation under this chapter in connection with any matter involving motor vehicle safety on which such person seeks official action by any officer or employee of the National Highway Traffic Safety Administration.

''(b) MANUFACTURERS.—It is unlawful for any manufacturer or other person subject to regulation under this chapter to employ or contract for the services of an individual to whom subsection (a) applies during the 2-year period commencing on the individual's termination of employment with the National Highway Traffic Safety Administration in a capacity in which the individual is prohibited from serving during that period.

''(c) SPECIAL RULE FOR DETAILEES.—For purposes of this section, a person who is detailed from 1 department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

''(d) SAVINGS PROVISION.—Nothing in this section may be construed to expand, contract, or otherwise affect the application of any waiver or criminal penalties under section 207 of title 18.

''(e) EXCEPTION FOR TESTIMONY.—Nothing in this section may be construed to prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury.

''(f) DEFINED TERM.—In this section, the term 'covered vehicle safety official' means any officer or employee of the National Highway Traffic Safety Administration—

''(1) who, during the final 12 months of his or her service or employment with the agency, serves or served in a technical or legal capacity, and whose job responsibilities include or included vehicle safety defect investigation, vehicle safety compliance, vehicle safety rulemaking, or vehicle safety research; and

''(2) who serves in a supervisory or management capacity over an officer or employee described in paragraph (1).

''(g) EFFECTIVE DATE.—This section shall apply to covered vehicle safety officials who terminate service or employment with the National Highway Traffic Safety Administration after the date of enactment of the .''.

(b) CIVIL PENALTY.—Section 30165(a) of title 49, United States Code, as amended by this subtitle, is further amended by adding at the end the following:

''(5) IMPROPER INFLUENCE.—An individual who violates section 30107(a) is liable to the United States Government for a civil penalty, as determined under section 216(b) of title 18, for an offense under section 207 of that title. A manufacturer or other person subject to regulation under this chapter who violates section 30107(b) is liable to the United States Government for a civil penalty equal to the sum of—

''(A) an amount equal to not less than $100,000; and

''(B) an amount equal to 90 percent of the annual compensation or fee paid or payable to the individual with respect to whom the violation occurred.''.

(c) STUDY OF DEPARTMENT OF TRANSPORTATION POLICIES ON OFFICIAL COMMUNICATION WITH FORMER MOTOR VEHICLE SAFETY ISSUE EMPLOYEES.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Transportation shall—

(1) review the Department of Transportation's policies and procedures applicable to official communication with former employees concerning motor vehicle safety compliance matters for which they had responsibility during the last 12 months of their tenure at the Department, including any limitations on the ability of such employees to submit comments, or otherwise communicate directly with the Department, on motor vehicle safety issues; and

(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that contains the Inspector General's findings, conclusions, and recommendations for strengthening those policies and procedures to minimize the risk of undue influence without compromising the ability of the Department to employ and retain highly qualified individuals for such responsibilities.

(d) POST-EMPLOYMENT POLICY STUDY.—

(1) IN GENERAL.—The Inspector General of the Department of Transportation shall conduct a study of the Department's policies relating to post-employment restrictions on employees who perform functions related to transportation safety.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Inspector General shall submit a report containing the results of the study conducted under paragraph (1) to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Secretary of Transportation.

(3) USE OF RESULTS.—The Secretary of Transportation shall review the results of the study conducted under paragraph (1) and take whatever action the Secretary determines to be appropriate.

(e) CONFORMING AMENDMENT.—The table of contents for chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30106 the following:

''30107. Restriction on covered motor vehicle safety officials.''.

SEC. 31310. STUDY OF CRASH DATA COLLECTION.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate the Committee on Energy and Commerce of the House of Representatives regarding the quality of data collected through the National Automotive Sampling System, including the Special Crash Investigations Program.

(b) REVIEW.—The Administrator of the National Highway Traffic Safety Administration (referred to in this section as the ''Administration'') shall conduct a comprehensive review of the data elements collected from each crash to determine if additional data should be collected. The review under this subsection shall include input from interested parties, including suppliers, automakers, safety advocates, the medical community, and research organizations.

(c) CONTENTS.—The report issued under this section shall include—

(1) the analysis and conclusions the Administration can reach from the amount of motor vehicle crash data collected in a given year;

(2) the additional analysis and conclusions the Administration could reach if more crash investigations were conducted each year;

(3) the number of investigations per year that would allow for optimal data analysis and crash information;

(4) the results of the comprehensive review conducted pursuant to subsection (b);

(5) recommendations for improvements to the Administration's data collection program; and

(6) the resources needed by the Administration to implement such recommendations.

SEC. 31311. UPDATE MEANS OF PROVIDING NOTIFICATION; IMPROVING EFFICACY OF RECALLS.

(a) UPDATE OF MEANS OF PROVIDING NOTIFICATION.—Section 30119(d) of title 49, United States Code, is amended—

(1) by striking, in paragraph (1), ''by first class mail'' and inserting ''in the manner prescribed by the Secretary, by regulation'';

(2) in paragraph (2)—

(A) by striking ''(except a tire) shall be sent by first class mail'' and inserting ''shall be sent in the manner prescribed by the Secretary, by regulation,''; and

(B) by striking the second sentence;

(3) in paragraph (3)—

(A) by striking the first sentence;

(B) by inserting ''to the notification required under paragraphs (1) and (2)'' after ''addition''; and

(C) by inserting ''by the manufacturer'' after ''given''; and

(4) in paragraph (4), by striking ''by certified mail or quicker means if available'' and inserting ''in the manner prescribed by the Secretary, by regulation''.

(b) IMPROVING EFFICACY OF RECALLS.—Section 30119(e) of title 49, United States Code, is amended—

(1) in the subsection heading, by striking ''SECOND'' and inserting ''ADDITIONAL'';

(2) by striking ''If the Secretary'' and inserting the following:

''(1) SECOND NOTIFICATION.—If the Secretary''; and

(3) by adding at the end the following:

''(2) ADDITIONAL NOTIFICATIONS.—If the Secretary determines, after considering the severity of the defect or noncompliance, that the second notification by a manufacturer does not result in an adequate number of motor vehicles or items of replacement equipment being returned for remedy, the Secretary may order the manufacturer—

''(A) to send additional notifications in the manner prescribed by the Secretary, by regulation;

''(B) to take additional steps to locate and notify each person registered under State law as the owner or lessee or the most recent purchaser or lessee, as appropriate; and

''(C) to emphasize the magnitude of the safety risk caused by the defect or noncompliance in such notification.''.

SEC. 31312. EXPANDING CHOICES OF REMEDY AVAILABLE TO MANUFACTURERS OF REPLACEMENT EQUIPMENT.

Section 30120 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by amending subparagraph (B) to read as follows:

''(B) if replacement equipment, by repairing the equipment, replacing the equipment with identical or reasonably equivalent equipment, or by refunding the purchase price.'';

(2) in the heading of subsection (i), by adding ''OF NEW VEHICLES OR EQUIPMENT'' at the end; and

(3) in the heading of subsection (j), by striking ''REPLACED'' and inserting ''REPLACEMENT''.

SEC. 31313. RECALL OBLIGATIONS AND BANKRUPTCY OF MANUFACTURER.

(a) IN GENERAL.—Chapter 301 of title 49, United States Code, is amended by inserting the following after section 30120:

''SEC. 30120A. RECALL OBLIGATIONS AND BANKRUPTCY OF A MANUFACTURER.

''A manufacturer's filing of a petition in bankruptcy under chapter 11 of title 11, does not negate the manufacturer's duty to comply with section 30112 or sections 30115 through 30120 of this title. In any bankruptcy proceeding, the manufacturer's obligations under such sections shall be treated as a claim of the United States Government against such manufacturer, subject to subchapter II of chapter 37 of title 31, United States Code, and given priority pursuant to section 3713(a)(1)(A) of such chapter, notwithstanding section 3713(a)(2), to ensure that consumers are adequately protected from any safety defect or noncompliance determined to exist in the manufacturer's products. This section shall apply equally to actions of a manufacturer taken before or after the filing of a petition in bankruptcy.''.

(b) CONFORMING AMENDMENT.—The chapter analysis of chapter 301 of title 49, United States Code, is amended by inserting after the item relating to section 30120 the following:

''30120a. Recall obligations and bankruptcy of a manufacturer.''.

SEC. 31314. REPEAL OF INSURANCE REPORTS AND INFORMATION PROVISION.

Chapter 331 of title 49, United States Code, is amended—

(1) in the chapter analysis, by striking the item relating to section 33112; and

(2) by striking section 33112.

SEC. 31315. MONRONEY STICKER TO PERMIT ADDITIONAL SAFETY RATING CATEGORIES.

Section 3(g)(2) of the Automobile Information Disclosure Act (15 U.S.C. 1232(g)(2)), is amended by inserting ''safety rating categories that may include'' after ''refers to''.

Subtitle D—Vehicle Electronics and Safety Standards

SEC. 31401. NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION ELECTRONICS, SOFTWARE, AND ENGINEERING EXPERTISE.

(a) COUNCIL FOR VEHICLE ELECTRONICS, VEHICLE SOFTWARE, AND EMERGING TECHNOLOGIES.—

(1) IN GENERAL.—The Secretary shall establish, within the National Highway Traffic Safety Administration, a Council for Vehicle Electronics, Vehicle Software, and Emerging Technologies (referred to in this section as the ''Council'') to build, integrate, and aggregate the Administration's expertise in passenger motor vehicle electronics and other new and emerging technologies.

(2) IMPLEMENTATION OF ROADMAP.—The Council shall research the inclusion of emerging lightweight plastic and composite technologies in motor vehicles to increase fuel efficiency, lower emissions, meet fuel economy standards, and enhance passenger motor vehicle safety through continued utilization of the Administration's Plastic and Composite Intensive Vehicle Safety Roadmap (Report No. DOT HS 810 863).

(3) INTRA-AGENCY COORDINATION.—The Council shall coordinate with all components of the Administration responsible for vehicle safety, including research and development, rulemaking, and defects investigation.

(b) HONORS RECRUITMENT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish, within the National Highway Traffic Safety Administration, an honors program for engineering students, computer science students, and other students interested in vehicle safety that will enable such students to train with engineers and other safety officials for a career in vehicle safety.

(2) STIPEND.—The Secretary is authorized to provide a stipend to students during their participation in the program established pursuant to paragraph (1).

(c) ASSESSMENT.—The Council, in consultation with affected stakeholders, shall assess the implications of emerging safety technologies in passenger motor vehicles, including the effect of such technologies on consumers, product availability, and cost.

SEC. 31402. VEHICLE STOPPING DISTANCE AND BRAKE OVERRIDE STANDARD.

Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe a Federal motor vehicle safety standard that—

(1) mitigates unintended acceleration in passenger motor vehicles;

(2) establishes performance requirements, based on the speed, size, and weight of the vehicle, that enable a driver to bring a passenger motor vehicle safely to a full stop by normal braking application even if the vehicle is simultaneously receiving accelerator input signals, including a full-throttle input signal;

(3) may permit compliance through a system that requires brake pedal application, after a period of time determined by the Secretary, to override an accelerator pedal input signal in order to stop the vehicle;

(4) requires that redundant circuits or other mechanisms be built into accelerator control systems, including systems controlled by electronic throttle, to maintain vehicle control in the event of failure of the primary circuit or mechanism; and

(5) may permit vehicles to incorporate a means to temporarily disengage the function required under paragraph (2) to facilitate operations, such as maneuvering trailers or climbing steep hills, which may require the simultaneous operation of brake and accelerator.

SEC. 31403. PEDAL PLACEMENT STANDARD.

(a) IN GENERAL.—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard that would mitigate potential obstruction of pedal movement in passenger motor vehicles, after taking into account—

(1) various pedal mounting configurations; and

(2) minimum clearances for passenger motor vehicle foot pedals with respect to other pedals, the vehicle floor (including aftermarket floor coverings), and any other potential obstructions to pedal movement that the Secretary determines to be relevant.

(b) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 3 years after the date of the enactment of this Act.

(2) REPORT.—If the Secretary determines that a pedal placement standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) COMBINED RULEMAKING.—The Secretary may combine the rulemaking proceeding required under subsection (a) with the rulemaking proceeding required under section 31402.

SEC. 31404. ELECTRONIC SYSTEMS PERFORMANCE STANDARD.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider prescribing or amending

a Federal motor vehicle safety standard that—

(1) requires electronic systems in passenger motor vehicles to meet minimum performance requirements; and

(2) may include requirements for—

(A) electronic components;

(B) the interaction of electronic components;

(C) security needs for those electronic systems to prevent unauthorized access; or

(D) the effect of surrounding environments on those electronic systems.

(b) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the safety standard described in subsection (a) not later than 4 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that such a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) NATIONAL ACADEMY OF SCIENCES.—In conducting the rulemaking under subsection (a), the Secretary shall consider the findings and recommendations of the National Academy of Sciences, if any, pursuant to its study of electronic vehicle controls.

SEC. 31405. PUSHBUTTON IGNITION SYSTEMS STANDARD.

(a) PUSHBUTTON IGNITION STANDARD.—

(1) IN GENERAL.—The Secretary shall initiate a rulemaking proceeding to consider a Federal motor vehicle safety standard for passenger motor vehicles with pushbutton ignition systems that establishes a standardized operation of such systems when used by drivers, including drivers who may be unfamiliar with such systems, in an emergency situation when the vehicle is in motion.

(2) OTHER IGNITION SYSTEMS.—In the rulemaking proceeding initiated under paragraph (1), the Secretary may include any other ignition-starting mechanism that the Secretary determines should be considered.

(b) PUSHBUTTON IGNITION SYSTEM DEFINED.—The term ''pushbutton ignition system'' means a mechanism, such as the push of a button, for starting a passenger motor vehicle that does not involve the physical insertion and turning of a tangible key.

(c) DEADLINE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule to implement the standard described in subsection (a) not later than 2 years after the date of the enactment of this Act.

(2) REPORT.—If the Secretary determines that a standard does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31406. VEHICLE EVENT DATA RECORDERS.

(a) MANDATORY EVENT DATA RECORDERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall revise part 563 of title 49, Code of Federal Regulations, to require, beginning with model year 2015, that new passenger motor vehicles sold in the United States be equipped with an event data recorder that meets the requirements under that part.

(2) PENALTY.—The violation of any provision under part 563 of title 49, Code of Federal Regulations—

(A) shall be deemed to be a violation of section 30112 of title 49, United States Code;

(B) shall be subject to civil penalties under section 30165(a) of that title; and

(C) shall not subject a manufacturer (as defined in section 30102(a)(5) of that title) to the requirements under section 30120 of that title.

(b) LIMITATIONS ON INFORMATION RETRIEVAL.—

(1) OWNERSHIP OF DATA.—Any data in an event data recorder required under part 563 of title 49, Code of Federal Regulations, regardless of when the passenger motor vehicle in which it is installed was manufactured, is the property of the owner, or in the case of a leased vehicle, the lessee of the passenger motor vehicle in which the data recorder is installed.

(2) PRIVACY.—Data recorded or transmitted by such a data recorder may not be retrieved by a person other than the owner or lessee of the motor vehicle in which the recorder is installed unless—

(A) a court authorizes retrieval of the information in furtherance of a legal proceeding;

(B) the owner or lessee consents to the retrieval of the information for any purpose, including the purpose of diagnosing, servicing, or repairing the motor vehicle;

(C) the information is retrieved pursuant to an investigation or inspection authorized under section 1131(a) or 30166 of title 49, United States Code, and the personally identifiable information of the owner, lessee, or driver of the vehicle and the vehicle identification number is not disclosed in connection with the retrieved information; or

(D) the information is retrieved for the purpose of determining the need for, or facilitating, emergency medical response in response to a motor vehicle crash.

(c) REPORT TO CONGRESS.—Two years after the date of implementation of subsection (a), the Secretary shall study the safety impact and the impact on individual privacy of event data recorders in passenger motor vehicles and report its findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. The report shall include—

(1) the safety benefits gained from installation of event data recorders;

(2) the recommendations on what, if any, additional data the event data recorder should be modified to record;

(3) the additional safety benefit such information would yield;

(4) the estimated cost to manufacturers to implement the new enhancements;

(5) an analysis of how the information proposed to be recorded by an event data recorder conforms to applicable legal, regulatory, and policy requirements regarding privacy;

(6) a determination of the risks and effects of collecting and maintaining the information proposed to be recorded by an event data recorder;

(7) an examination and evaluation of the protections and alternative processes for handling information recorded by an event data recorder to mitigate potential privacy risks.

(d) REVISED REQUIREMENTS FOR EVENT DATA RECORDERS.—Based on the findings of the study under subsection (c), the Secretary shall initiate a rulemaking proceeding to revise part 563 of title 49, Code of Federal Regulations. The rule—

(1) shall require event data recorders to capture and store data related to motor vehicle safety covering a reasonable time period before, during, and after a motor vehicle crash or airbag deployment, including a rollover;

(2) shall require that data stored on such event data recorders be accessible, regardless of vehicle manufacturer or model, with commercially available equipment in a specified data format;

(3) shall establish requirements for preventing unauthorized access to the data stored on an event data recorder in order to protect the security, integrity, and authenticity of the data; and

(4) may require an interoperable data access port to facilitate universal accessibility and analysis.

(e) DISCLOSURE OF EXISTENCE AND PURPOSE OF EVENT DATA RECORDER.—The rule issued under subsection (d) shall require that any owner's manual or similar documentation provided to the first purchaser of a passenger motor vehicle for purposes other than resale—

(1) disclose that the vehicle is equipped with such a data recorder; and

(2) explain the purpose of the data recorder.

(f) ACCESS TO EVENT DATA RECORDERS IN AGENCY INVESTIGATIONS.—Section 30166(c)(3)(C) of title 49, United States Code, is amended by inserting '', including any electronic data contained within the vehicle's diagnostic system or event data recorder'' after ''equipment.''

(g) DEADLINE FOR RULEMAKING.—The Secretary shall issue a final rule under subsection (d) not later than 4 years after the date of enactment of this Act.

SEC. 31407. PROHIBITION ON ELECTRONIC VISUAL ENTERTAINMENT IN DRIVER'S VIEW.

(a) VISUAL ENTERTAINMENT SCREENS IN DRIVER'S VIEW.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule that prescribes a Federal motor vehicle safety standard prohibiting electronic screens from displaying broadcast television, movies, video games, and other forms of similar visual entertainment that is visible to the driver while driving.

(b) EXCEPTIONS.—The standard prescribed under subsection (a) shall allow electronic screens that display information or images regarding operation of the vehicle, vehicle surroundings, and telematic functions, such as the vehicles navigation and communications system, weather, time, or the vehicle's audio system.

SEC. 31408. COMMERCIAL MOTOR VEHICLE ROLLOVER PREVENTION AND CRASH MITIGATION.

(a) RULEMAKING.—Not later than 3 months after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding pursuant to section 30111 of title 49, United States Code, to prescribe or amend a Federal motor vehicle safety standard to reduce commercial motor vehicle rollover and loss of control crashes and mitigate deaths and injuries associated with such crashes for air-braked truck tractors and motorcoaches with a gross vehicle weight rating of more than 26,000 pounds.

(b) REQUIRED PERFORMANCE STANDARDS.—The rulemaking proceeding initiated under subsection (a) shall establish standards to reduce the occurrence of rollovers and loss of control crashes consistent with stability enhancing technologies, such as electronic stability control systems.

(c) DEADLINE.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule under subsection (a).

Subtitle E—Child Safety Standards

SEC. 31501. CHILD SAFETY SEATS.

(a) PROTECTION FOR LARGER CHILDREN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to establish frontal crash protection requirements for child restraint systems for children weighing more than 65 pounds.

(b) SIDE IMPACT CRASHES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall issue a final rule amending Federal Motor Vehicle Safety Standard Number 213 to improve the protection of children seated in child restraint systems during side impact crashes.

(c) FRONTAL IMPACT TEST PARAMETERS.—

(1) COMMENCEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall commence a rulemaking proceeding to amend test parameters under Federal Motor Vehicle Safety Standard Number 213 to better replicate real world conditions.

(2) FINAL RULE.—Not later than 4 years after the date of enactment of this Act, the Secretary shall issue a final rule pursuant to paragraph (1).

SEC. 31502. CHILD RESTRAINT ANCHORAGE SYSTEMS.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to—

(1) amend Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems) to improve the visibility of, accessibility to, and ease of use for lower anchorages and tethers in all rear seat seating positions if such anchorages and tethers are feasible; and

(2) amend Federal Motor Vehicle Safety Standard Number 213 (relating to child restraint systems) or Federal Motor Vehicle Safety Standard Number 225 (relating to child restraint anchorage systems)—

(A) to establish a maximum allowable weight of the child and child restraint for standardizing the recommended use of child restraint anchorage systems in all vehicles; and

(B) to provide the information described in subparagraph (A) to the consumer.

(b) FINAL RULE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of the enactment of this Act.

(2) REPORT.—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31503. REAR SEAT BELT REMINDERS.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 2 years after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard Number 208 (relating to occupant crash protection) to provide a safety belt use warning system for designated seating positions in the rear seat.

(b) FINAL RULE.—

(1) IN GENERAL.—Except as provided under paragraph (2), the Secretary shall issue a final rule under subsection (a) not later than 3 years after the date of enactment of this Act.

(2) REPORT.—If the Secretary determines that an amendment to the standard referred to in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31504. UNATTENDED PASSENGER REMINDERS.

(a) SAFETY RESEARCH INITIATIVE.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete research into the development of performance requirements to warn drivers that a child or other unattended passenger remains in a rear seating position after the vehicle motor is disengaged.

(b) SPECIFICATIONS.—In carrying out subsection (a), the Secretary shall consider performance requirements that—

(1) sense weight, the presence of a buckled seat belt, or other indications of the presence of a child or other passenger; and

(2) provide an alert to prevent hyperthermia and hypothermia that can result in death or severe injuries.

(c) RULEMAKING OR REPORT.—

(1) RULEMAKING.—Not later than 1 year after the completion of each research and testing initiative required under subsection (a), the Secretary shall initiate a rulemaking proceeding to issue a Federal motor vehicle safety standard if the Secretary determines that such a standard meets the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

(2) REPORT.—If the Secretary determines that the standard described in subsection (a) does not meet the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, the Secretary shall submit a report describing the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 31505. NEW DEADLINE.

If the Secretary determines that any deadline for issuing a final rule under this Act cannot be met, the Secretary shall—

(1) provide the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives with an explanation for why such deadline cannot be met; and

(2) establish a new deadline for that rule.

Subtitle F—Improved Daytime and Nighttime Visibility of Agricultural Equipment

SEC. 31601. RULEMAKING ON VISIBILITY OF AGRICULTURAL EQUIPMENT.

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL EQUIPMENT.—The term ''agricultural equipment'' has the meaning given the term ''agricultural field equipment'' in ASABE Standard 390.4, entitled ''Definitions and Classifications of Agricultural Field Equipment'', which was published in January 2005 by the American Society of Agriculture and Biological Engineers, or any successor standard.

(2) PUBLIC ROAD.—The term ''public road'' has the meaning given the term in section 101(a)(27) of title 23, United States Code.

(b) RULEMAKING.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, after consultation with representatives of the American Society of Agricultural and Biological Engineers and appropriate Federal agencies, and with other appropriate persons, shall promulgate a rule to improve the daytime and nighttime visibility of agricultural equipment that may be operated on a public road.

(2) MINIMUM STANDARDS.—The rule promulgated pursuant to this subsection shall—

(A) establish minimum lighting and marking standards for applicable agricultural equipment manufactured at least 1 year after the date on which such rule is promulgated; and

(B) provide for the methods, materials, specifications, and equipment to be employed to comply with such standards, which shall be equivalent to ASABE Standard 279.14, entitled ''Lighting and Marking of Agricultural Equipment on Highways'', which was published in July 2008 by the American Society of Agricultural and Biological Engineers, or any successor standard.

(c) REVIEW.—Not less frequently than once every 5 years, the Secretary of Transportation shall—

(1) review the standards established pursuant to subsection (b); and

(2) revise such standards to reflect the revision of ASABE Standard 279 that is in effect at the time of such review.

(d) LIMITATIONS.—

(1) COMPLIANCE WITH SUCCESSOR STANDARDS.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped in accordance with any adopted revision of ASABE Standard 279 that is later than the revision of such standard that was referenced during the promulgation of the rule.

(2) NO RETROFITTING REQUIRED.—Any rule promulgated pursuant to this section may not require the retrofitting of agricultural equipment that was manufactured before the date on which the lighting and marking standards are enforceable under subsection (b)(2)(A).

(3) NO EFFECT ON ADDITIONAL MATERIALS AND EQUIPMENT.—Any rule promulgated pursuant to this section may not prohibit the operation on public roads of agricultural equipment that is equipped with materials or equipment that are in addition to the minimum materials and equipment specified in the standard upon which such rule is based.

TITLE II—COMMERCIAL MOTOR VEHICLE SAFETY ENHANCEMENT ACT OF 2012

SEC. 32001. SHORT TITLE.

This title may be cited as the ''Commercial Motor Vehicle Safety Enhancement Act of 2012''.

SEC. 32002. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

Subtitle A—Commercial Motor Vehicle Registration

SEC. 32101. REGISTRATION OF MOTOR CARRIERS.

(a) REGISTRATION REQUIREMENTS.—Section 13902(a)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary of Transportation may not register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier unless the Secretary determines that the person—

''(A) is willing and able to comply with—

''(i) this part and the applicable regulations of the Secretary and the Board;

''(ii) any safety regulations imposed by the Secretary;

''(iii) the duties of employers and employees established by the Secretary under section 31135;

''(iv) the safety fitness requirements established by the Secretary under section 31144;

''(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; and

''(vi) the minimum financial responsibility requirements established by the Secretary under sections 13906, 31138, and 31139;

''(B) has submitted a comprehensive management plan documenting that the person has management systems in place to ensure compliance with safety regulations imposed by the Secretary;

''(C) has disclosed any relationship involving common ownership, common management, common control, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, or any other applicant for motor carrier, freight forwarder, or broker registration, or a successor (as that term is defined under section 31153), if the relationship occurred in the 5-year period preceding the date of the filing of the application for registration; and

''(D) after the Secretary establishes a written proficiency examination pursuant to section 32101(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012, has passed the written proficiency examination.''.

(b) WRITTEN PROFICIENCY EXAMINATION.—

(1) ESTABLISHMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall establish a written proficiency examination for applicant motor carriers pursuant to section 13902(a)(1)(D) of title 49, United States Code. The written proficiency examination shall test a person's knowledge of applicable safety regulations, standards, and orders of the Federal government and State government.

(2) ADDITIONAL FEE.—The Secretary may assess a fee to cover the expenses incurred by the Department of Transportation in—

(A) developing and administering the written proficiency examination; and

(B) reviewing the comprehensive management plan required under section 13902(a)(1)(B) of title 49, United States Code.

(c) CONFORMING AMENDMENT.—Section 210(b) of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31144 note) is amended—

(1) by inserting '', commercial regulations, and provisions of subpart H of part 37 of title 49, Code of Federal Regulations, or successor regulations'' after ''applicable safety regulations''; and

(2) by striking ''consider the establishment of'' and inserting ''establish''.

SEC. 32102. SAFETY FITNESS OF NEW OPERATORS.

(a) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended to read as follows:

''(1) SAFETY REVIEW.—

''(A) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new registration under section 13902 or 31134 to undergo a safety review not later than 12 months after the owner or operator, as the case may be, begins operations under such registration.

''(B) PROVIDERS OF MOTORCOACH SERVICES.—The Secretary may register a person to provide motorcoach services under section 13902 or 31134 after the person undergoes a pre-authorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, as described in section 13902. The Secretary shall continue to monitor the safety performance of each owner and each operator subject to this section for 12 months after the owner or operator is granted registration under section 13902 or 31134. The registration of each owner and each operator subject to this section shall become permanent after the motorcoach service provider is granted registration following a pre-authorization safety audit and the expiration of the 12 month monitoring period.

''(C) PRE-AUTHORIZATION SAFETY AUDIT.—The Secretary may require, by regulation, that the pre-authorization safety audit under subparagraph (B) be completed on-site not later than 90 days after the submission of an application for operating authority.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 32103. REINCARNATED CARRIERS.

(a) EFFECTIVE PERIODS OF REGISTRATION.—

(1) SUSPENSIONS, AMENDMENTS, AND REVOCATIONS.—Section 13905(d) is amended—

(A) by redesignating paragraph (2) as paragraph (4);

(B) by striking paragraph (1) and inserting the following:

''(1) APPLICATIONS.—On application of the registrant, the Secretary may amend or revoke a registration.

''(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—

''(A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

''(i) this part;

''(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations (or successor regulations), for transportation provided by an over-the-road bus; or

''(iii) a condition of its registration;

''(B) withhold, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure—

''(i) to pay a civil penalty imposed under chapter 5, 51, 149, or 311;

''(ii) to arrange and abide by an acceptable payment plan for such civil penalty, not later than 90 days after the date specified by order of the Secretary for the payment of such penalty; or

''(iii) for failure to obey a subpoena issued by the Secretary;

''(C) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder following a determination by the Secretary that the motor carrier, broker, or freight forwarder failed to disclose, in its application for registration, a material fact relevant to its willingness and ability to comply with—

''(i) this part;

''(ii) an applicable regulation or order of the Secretary or the Board; or

''(iii) a condition of its registration; or

''(D) withhold, suspend, amend, or revoke any part of a registration of a motor carrier, broker, or freight forwarder if the Secretary finds that—

''(i) the motor carrier, broker, or freight forwarder is or was related through common ownership, common management, common control, or common familial relationship to any other motor carrier, broker, or freight forwarder, or any other applicant for motor carrier, broker, or freight forwarder registration that the Secretary determines is or was unwilling or unable to comply with the relevant requirements listed in section 13902, 13903, or 13904; or

''(ii) the person is the successor, as defined in section 31153, to a person who is or was unwilling or unable to comply with the relevant requirements of section 13902, 13903, or 13904.

''(3) LIMITATION.—Paragraph (2)(B) shall not apply to a person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11 of title 11.''; and

(C) in paragraph (4), as redesignated by section 32103(a)(1)(A) of this Act, by striking ''paragraph (1)(B)'' and inserting ''paragraph (2)(B)''.

(2) PROCEDURE.—Section 13905(e) is amended by inserting ''or if the Secretary determines that the registrant failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C),'' after ''registrant,''.

(b) INFORMATION SYSTEMS.—Section 31106(a)(3) is amended—

(1) in subparagraph (F), by striking ''and'' at the end;

(2) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(H) determine whether a person or employer is or was related, through common ownership, common management, common control, or common familial relationship, to any other person, employer, or any other applicant for registration under section 13902 or 31134.''.

SEC. 32104. FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall—

(1) issue a report on the appropriateness of—

(A) the current minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code; and

(B) the current bond and insurance requirements under section 13904(f) of title 49, United States Code; and

(2) submit the report issued under paragraph (1) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) RULEMAKING.—Not later than 6 months after the publication of the report under subsection (a), the Secretary shall initiate a rulemaking—

(1) to revise the minimum financial responsibility requirements under sections 31138 and 31139 of title 49, United States Code and

(2) to revise the bond and insurance requirements under section 13904(f) of such title, as appropriate, based on the findings of the report submitted under subsection (a).

(c) DEADLINE.—Not later than 1 year after the start of the rulemaking under subsection (b), the Secretary shall—

(1) issue a final rule; or

(2) if the Secretary determines that a rulemaking is not required following the Secretary's analysis, submit a report stating the reason for not increasing the minimum financial responsibility requirements to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) BIENNIAL REVIEWS.—Not less than once every 2 years, the Secretary shall review the requirements prescribed under subsection (b) and revise the requirements, as appropriate.

SEC. 32105. USDOT NUMBER REGISTRATION REQUIREMENT.

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31133 the following:

''§ 31134. Requirement for registration and USDOT number

''(a) IN GENERAL.—Upon application, and subject to subsections (b) and (c), the Secretary shall register an employer or person subject to the safety jurisdiction of this subchapter. An employer or person may operate a commercial motor vehicle in interstate commerce only if the employer or person is registered by the Secretary under this section and receives a USDOT number. Nothing in this section shall preclude registration by the Secretary of an employer or person not engaged in interstate commerce. An employer or person subject to jurisdiction under subchapter I of chapter 135 of this title shall apply for commercial registration under section 13902 of this title.

''(b) WITHHOLDING REGISTRATION.—The Secretary may withhold registration under subsection (a), after notice and an opportunity for a proceeding, if the Secretary determines that—

''(1) the employer or person seeking registration is unwilling or unable to comply with the requirements of this subchapter and the regulations prescribed thereunder and chapter 51 and the regulations prescribed thereunder;

''(2) the employer or person is or was related through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

''(3) the person is the successor, as defined in section 31153, to a person who is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1).

''(c) REVOCATION OR SUSPENSION OF REGISTRATION.—The Secretary shall revoke the registration of an employer or person under subsection (a) after notice and an opportunity for a proceeding, or suspend the registration after giving notice of the suspension to the employer or person, if the Secretary determines that—

''(1) the employer's or person's authority to operate pursuant to chapter 139 of this title would be subject to revocation or suspension under sections 13905(d)(1) or 13905(f) of this title;

''(2) the employer or person is or was related through common ownership, common management, common control, or common familial relationship to any other person or applicant for registration subject to this subchapter that the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1);

''(3) the person is the successor, as defined in section 31153, to a person the Secretary determines is or was unfit, unwilling, or unable to comply with the requirements listed in subsection (b)(1); or

''(4) the employer or person failed or refused to submit to the safety review required by section 31144(g) of this title.

''(d) PERIODIC REGISTRATION UPDATE.—The Secretary may require an employer to update a registration under this section periodically or not later than 30 days after a change in the employer's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31133 the following:

''31134. Requirement for registration and USDOT number.''.

SEC. 32106. REGISTRATION FEE SYSTEM.

Section 13908(d)(1) is amended by striking ''but shall not exceed $300''.

SEC. 32107. REGISTRATION UPDATE.

(a) PERIODIC MOTOR CARRIER UPDATE.—Section 13902 is amended by adding at the end the following:

''(h) UPDATE OF REGISTRATION.—The Secretary may require a registrant to update its registration under this section periodically or not later than 30 days after a change in the registrant's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

(b) PERIODIC FREIGHT FORWARDER UPDATE.—Section 13903 is amended by adding at the end the following:

''(c) UPDATE OF REGISTRATION.—The Secretary may require a freight forwarder to update its registration under this section periodically or not later than 30 days after a change in the freight forwarder's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

(c) PERIODIC BROKER UPDATE.—Section 13904 is amended by adding at the end the following:

''(e) UPDATE OF REGISTRATION.—The Secretary may require a broker to update its registration under this section periodically or not later than 30 days after a change in the broker's address, other contact information, officers, process agent, or other essential information, as determined by the Secretary.''.

SEC. 32108. INCREASED PENALTIES FOR OPERATING WITHOUT REGISTRATION.

(a) PENALTIES.—Section 14901(a) is amended—

(1) by striking ''$500'' and inserting ''$1,000'';

(2) by striking ''who is not registered under this part to provide transportation of passengers,'';

(3) by striking ''with respect to providing transportation of passengers,'' and inserting ''or section 13902(c) of this title,''; and

(4) by striking ''$2,000 for each violation and each additional day the violation continues'' and inserting ''$10,000 for each violation, or $25,000 for each violation relating to providing transportation of passengers''.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—Section 14901(b) is amended by striking ''not to exceed $20,000'' and inserting ''not less than $25,000''.

SEC. 32109. REVOCATION OF REGISTRATION FOR IMMINENT HAZARD.

Section 13905(f)(2) is amended to read as follows:

''(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary shall revoke the registration of a motor carrier if the Secretary finds that the carrier is or was conducting unsafe operations that are or were an imminent hazard to public health or property.''.

SEC. 32110. REVOCATION OF REGISTRATION AND OTHER PENALTIES FOR FAILURE TO RESPOND TO SUBPOENA.

Section 525 is amended—

(1) by striking ''subpenas'' in the section heading and inserting ''subpoenas'';

(2) by striking ''subpena'' and inserting ''subpoena'';

(3) by striking ''$100'' and inserting ''$1,000'';

(4) by striking ''$5,000'' and inserting ''$10,000''; and

(5) by adding at the end the following:

''The Secretary may withhold, suspend, amend, or revoke any part of the registration of a person required to register under chapter 139 for failing to obey a subpoena or requirement of the Secretary under this chapter to appear and testify or produce records.''.

SEC. 32111. FLEETWIDE OUT OF SERVICE ORDER FOR OPERATING WITHOUT REQUIRED REGISTRATION.

Section 13902(e)(1) is amended—

(1) by striking ''motor vehicle'' and inserting ''motor carrier'' after ''the Secretary determines that a''; and

(2) by striking ''order the vehicle'' and inserting ''order the motor carrier operations'' after ''the Secretary may''.

SEC. 32112. MOTOR CARRIER AND OFFICER PATTERNS OF SAFETY VIOLATIONS.

Section 31135 is amended—

(1) by striking subsection (b) and inserting the following:

''(b) NONCOMPLIANCE.—

''(1) MOTOR CARRIERS.—Two or more motor carriers, employers, or persons shall not use common ownership, common management, common control, or common familial relationship to enable any or all such motor carriers, employers, or persons to avoid compliance, or mask or otherwise conceal non-compliance, or a history of non-compliance, with regulations prescribed under this subchapter or an order of the Secretary issued under this subchapter.

''(2) PATTERN.—If the Secretary finds that a motor carrier, employer, or person engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations prescribed under this subchapter, the Secretary—

''(A) may withhold, suspend, amend, or revoke any part of the motor carrier's, employer's, or person's registration in accordance with section 13905 or 31134; and

''(B) shall take into account such non-compliance for purposes of determining civil penalty amounts under section 521(b)(2)(D).

''(3) OFFICERS.—If the Secretary finds, after notice and an opportunity for proceeding, that an officer of a motor carrier, employer, or owner or operator engaged in a pattern or practice of violating regulations prescribed under this subchapter, or assisted a motor carrier, employer, or owner or operator in avoiding compliance, or masking or otherwise concealing noncompliance, the Secretary may impose appropriate sanctions, subject to the limitations in paragraph (4), including—

''(A) suspension or revocation of registration granted to the officer individually under section 13902 or 31134;

''(B) temporary or permanent suspension or bar from association with any motor carrier, employer, or owner or operator registered under section 13902 or 31134; or

''(C) any appropriate sanction approved by the Secretary.

''(4) LIMITATIONS.—The sanctions described in subparagraphs (A) through (C) of subsection (b)(3) shall apply to—

''(A) intentional or knowing conduct, including reckless conduct that violates applicable laws (including regulations); and

''(B) repeated instances of negligent conduct that violates applicable laws (including regulations).''; and

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

''(c) AVOIDING COMPLIANCE.—For purposes of this section, 'avoiding compliance' or 'masking or otherwise concealing non-compliance' includes serving as an officer or otherwise exercising controlling influence over 2 or more motor carriers where—

''(1) one of the carriers was placed out of service, or received notice from the Secretary that it will be placed out of service, following—

''(A) a determination of unfitness under section 31144(b);

''(B) a suspension or revocation of registration under section 13902, 13905, or 31144(g);

''(C) issuance of an imminent hazard out of service order under section 521(b)(5) or section 5121(d); or

''(D) notice of failure to pay a civil penalty or abide by a penalty payment plan; and

''(2) one or more of the carriers is the 'successor,' as that term is defined in section 31153, to the carrier that is the subject of the action in paragraph (1).''.

SEC. 32113. FEDERAL SUCCESSOR STANDARD.

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31152, as added by section 32508 of this Act, the following:

''§ 31153. Federal successor standard

''(a) FEDERAL SUCCESSOR STANDARD.—Notwithstanding any other provision of Federal or State law, the Secretary may take an action authorized under chapters 5, 51, 131 through 149, subchapter III of chapter 311 (except sections 31138 and 31139), or sections 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions, against a successor of a motor carrier (as defined in section 13102), a successor of an employer (as defined in section 31132), or a successor of an owner or operator (as that term is used in subchapter III of chapter 311), to the same extent and on the same basis as the Secretary may take the action against the motor carrier, employer, or owner or operator.

''(b) SUCCESSOR DEFINED.—For purposes of this section, the term 'successor' means a motor carrier, employer, or owner or operator that the Secretary determines, after notice and an opportunity for a proceeding, has 1 or more features that correspond closely with the features of another existing or former motor carrier, employer, or owner or operator, such as—

''(1) consideration paid for assets purchased or transferred;

''(2) dates of corporate creation and dissolution or termination of operations;

''(3) commonality of ownership;

''(4) commonality of officers and management personnel and their functions;

''(5) commonality of drivers and other employees;

''(6) identity of physical or mailing addresses, telephone, fax numbers, or e-mail addresses;

''(7) identity of motor vehicle equipment;

''(8) continuity of liability insurance policies;

''(9) commonality of coverage under liability insurance policies;

''(10) continuation of carrier facilities and other physical assets;

''(11) continuity of the nature and scope of operations, including customers;

''(12) commonality of the nature and scope of operations, including customers;

''(13) advertising, corporate name, or other acts through which the motor carrier, employer, or owner or operator holds itself out to the public;

''(14) history of safety violations and pending orders or enforcement actions of the Secretary; and

''(15) additional factors that the Secretary considers appropriate.

''(c) EFFECTIVE DATE.—Notwithstanding any other provision of law, this section shall apply to any action commenced on or after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 without regard to whether the violation that is the subject of the action, or the conduct that caused the violation, occurred before the date of enactment.

''(d) RIGHTS NOT AFFECTED.—Nothing in this section shall affect the rights, functions, or responsibilities under law of any other Department, Agency, or instrumentality of the United States, the laws of any State, or any rights between a private party and a motor carrier, employer, or owner or operator.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item related to section 31152, as added by section 32508 of this Act, the following:

''31153. Federal successor standard.''.

Subtitle B—Commercial Motor Vehicle Safety

SEC. 32201. REPEAL OF COMMERCIAL JURISDICTION EXCEPTION FOR BROKERS OF MOTOR CARRIERS OF PASSENGERS.

(a) IN GENERAL.—Section 13506(a) is amended—

(1) by inserting ''or'' at the end of paragraph (13);

(2) by striking paragraph (14); and

(3) by redesignating paragraph (15) as paragraph (14).

(b) CONFORMING AMENDMENT.—Section 13904(a) is amended by striking ''of property'' in the first sentence.

SEC. 32202. BUS RENTALS AND DEFINITION OF EMPLOYER.

Paragraph (3) of section 31132 is amended to read as follows:

''(3) 'employer'—

''(A) means a person engaged in a business affecting interstate commerce that—

''(i) owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the commercial motor vehicle; or

''(ii) offers for rent or lease a motor vehicle designed or used to transport more than 8 passengers, including the driver, and from the same location or as part of the same business provides names or contact information of drivers, or holds itself out to the public as a charter bus company; but

''(B) does not include the Government, a State, or a political subdivision of a State.''.

SEC. 32203. CRASHWORTHINESS STANDARDS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall conduct a comprehensive analysis on the need for crashworthiness standards on property-carrying commercial motor vehicles with a gross vehicle weight rating or gross vehicle weight of at least 26,001 pounds involved in interstate commerce, including an evaluation of the need for roof strength, pillar strength, air bags, and frontal and back wall standards.

(b) REPORT.—Not later than 90 days after completing the comprehensive analysis under subsection (a), the Secretary shall report the results of the analysis and any recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 32204. CANADIAN SAFETY RATING RECIPROCITY.

Section 31144 is amended by adding at the end the following:

''(h) RECOGNITION OF CANADIAN MOTOR CARRIER SAFETY FITNESS DETERMINATIONS.—

''(1) If an authorized agency of the Canadian federal government or a Canadian Territorial or Provincial government determines, by applying the procedure and standards prescribed by the Secretary under subsection (b) or pursuant to an agreement under paragraph (2), that a Canadian employer is unfit and prohibits the employer from operating a commercial motor vehicle in Canada or any Canadian Province, the Secretary may prohibit the employer from operating such vehicle in interstate and foreign commerce until the authorized Canadian agency determines that the employer is fit.

''(2) The Secretary may consult and participate in negotiations with authorized officials of the Canadian federal government or a Canadian Territorial or Provincial government, as necessary, to provide reciprocal recognition of each country's motor carrier safety fitness determinations. An agreement shall provide, to the maximum extent practicable, that each country will follow the procedure and standards prescribed by the Secretary under subsection (b) in making motor carrier safety fitness determinations.''.

SEC. 32205. STATE REPORTING OF FOREIGN COMMERCIAL DRIVER CONVICTIONS.

(a) DEFINITION OF FOREIGN COMMERCIAL DRIVER.—Section 31301 is amended—

(1) by redesignating paragraphs (10) through (14) as paragraphs (11) through (15), respectively; and

(2) by inserting after paragraph (9) the following:

''(10) 'foreign commercial driver' means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.''.

(b) STATE REPORTING OF CONVICTIONS.—Section 31311(a) is amended by adding after paragraph (21) the following:

''(22) The State shall report a conviction of a foreign commercial driver by that State to the Federal Convictions and Withdrawal Database, or another information system designated by the Secretary to record the convictions. A report shall include—

''(A) for a driver holding a foreign commercial driver's license—

''(i) each conviction relating to the operation of a commercial motor vehicle; and

''(ii) a non-commercial motor vehicle; and

''(B) for an unlicensed driver or a driver holding a foreign non-commercial driver's license, each conviction for operating a commercial motor vehicle.''.

SEC. 32206. AUTHORITY TO DISQUALIFY FOREIGN COMMERCIAL DRIVERS.

Section 31310 is amended by adding at the end the following:

''(k) FOREIGN COMMERCIAL DRIVERS.—A foreign commercial driver shall be subject to disqualification under this section.''.

SEC. 32207. REVOCATION OF FOREIGN MOTOR CARRIER OPERATING AUTHORITY FOR FAILURE TO PAY CIVIL PENALTIES.

Section 13905(d)(2), as amended by section 32103(a) of this Act, is amended by inserting ''foreign motor carrier, foreign motor private carrier,'' after ''registration of a motor carrier,'' each place it appears.

Subtitle C—Driver Safety

SEC. 32301. ELECTRONIC ON-BOARD RECORDING DEVICES.

(a) GENERAL AUTHORITY.—Section 31137 is amended—

(1) by amending the section heading to read as follows:

''§ 31137. Electronic on-board recording devices and brake maintenance regulations'';

(2) by redesignating subsection (b) as subsection (e); and

(3) by amending (a) to read as follows:

''(a) ELECTRONIC ON-BOARD RECORDING DEVICES.—Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary of Transportation shall prescribe regulations—

''(1) requiring a commercial motor vehicle involved in interstate commerce and operated by a driver subject to the hours of service and the record of duty status requirements under part 395 of title 49, Code of Federal Regulations, be equipped with an electronic on-board recording device to improve compliance by an operator of a vehicle with hours of service regulations prescribed by the Secretary; and

''(2) ensuring that an electronic on-board recording device is not used to harass a vehicle operator.

''(b) ELECTRONIC ON-BOARD RECORDING DEVICE REQUIREMENTS.—

''(1) IN GENERAL.—The regulations prescribed under subsection (a) shall—

''(A) require an electronic on-board recording device—

''(i) to accurately record commercial driver hours of service;

''(ii) to record the location of a commercial motor vehicle;

''(iii) to be tamper resistant; and

''(iv) to be integrally synchronized with an engine's control module;

''(B) allow law enforcement to access the data contained in the device during a roadside inspection; and

''(C) apply to a commercial motor vehicle beginning on the date that is 2 years after the date that the regulations are published as a final rule.

''(2) PERFORMANCE AND DESIGN STANDARDS.—The regulations prescribed under subsection (a) shall establish performance standards—

''(A) defining a standardized user interface to aid vehicle operator compliance and law enforcement review;

''(B) establishing a secure process for standardized—

''(i) and unique vehicle operator identification;

''(ii) data access;

''(iii) data transfer for vehicle operators between motor vehicles;

''(iv) data storage for a motor carrier; and

''(v) data transfer and transportability for law enforcement officials;

''(C) establishing a standard security level for an electronic on-board recording device and related components to be tamper resistant by using a methodology endorsed by a nationally recognized standards organization; and

''(D) identifying each driver subject to the hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

''(c) CERTIFICATION CRITERIA.—

''(1) IN GENERAL.—The regulations prescribed by the Secretary under this section shall establish the criteria and a process for the certification of an electronic on-board recording device to ensure that the device meets the performance requirements under this section.

''(2) EFFECT OF NONCERTIFICATION.—An electronic on-board recording device that is not certified in accordance with the certification process referred to in paragraph (1) shall not be acceptable evidence of hours of service and record of duty status requirements under part 395 of title 49, Code of Federal Regulations.

''(d) ELECTRONIC ON-BOARD RECORDING DEVICE DEFINED.—In this section, the term 'electronic on-board recording device' means an electronic device that—

''(1) is capable of recording a driver's hours of service and duty status accurately and automatically; and

''(2) meets the requirements established by the Secretary through regulation.''.

(b) CIVIL PENALTIES.—Section 30165(a)(1) is amended by striking ''or 30141 through 30147'' and inserting ''30141 through 30147, or 31137''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by striking the item relating to section 31137 and inserting the following:

''31137. Electronic on-board recording devices and brake maintenance regulations.''.

SEC. 32302. SAFETY FITNESS.

(a) SAFETY FITNESS RATING METHODOLOGY.—The Secretary shall—

(1) incorporate into its Compliance, Safety, Accountability program a safety fitness rating methodology that assigns sufficient weight to adverse vehicle and driver performance based-data that elevate crash risks to warrant an unsatisfactory rating for a carrier; and

(2) ensure that the data to support such assessments is accurate.

(b) INTERIM MEASURES.—Not later than March 31, 2012, the Secretary shall take interim measures to implement a similar safety fitness rating methodology in its current safety rating system if the Compliance, Safety, Accountability program is not fully implemented.

SEC. 32303. DRIVER MEDICAL QUALIFICATIONS.

(a) DEADLINE FOR ESTABLISHMENT OF NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a national registry of medical examiners in accordance with section 31149(d)(1) of title 49, United States Code.

(b) EXAMINATION REQUIREMENT FOR NATIONAL REGISTRY OF MEDICAL EXAMINERS.—Section 31149(c)(1)(D) is amended to read as follows:

''(D) not later than 1 year after enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, develop requirements for a medical examiner to be listed in the national registry under this section, including—

''(i) the completion of specific courses and materials;

''(ii) certification, including self-certification, if the Secretary determines that self-certification is necessary for sufficient participation in the national registry, to verify that a medical examiner completed specific training, including refresher courses, that the Secretary determines necessary to be listed in the national registry;

''(iii) an examination that requires a passing grade; and

''(iv) demonstration of a medical examiner's willingness to meet the reporting requirements established by the Secretary;''.

(c) ADDITIONAL OVERSIGHT OF LICENSING AUTHORITIES.—

(1) IN GENERAL.—Section 31149(c)(1) is amended—

(A) in subparagraph (E), by striking ''and'' after the semicolon;

(B) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(G) annually review the implementation of commercial driver's license requirements by not fewer than 10 States to assess the accuracy, validity, and timeliness of—

''(i) the submission of physical examination reports and medical certificates to State licensing agencies; and

''(ii) the processing of the submissions by State licensing agencies.''.

(2) INTERNAL OVERSIGHT POLICY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish an oversight policy and procedure to carry out section 31149(c)(1)(G) of title 49, United States Code, as added by section 32303(c)(1) of this Act.

(B) EFFECTIVE DATE.—The amendments made by section 32303(c)(1) of this Act shall take effect on the date the oversight policies and procedures are established pursuant to subparagraph (A).

(d) ELECTRONIC FILING OF MEDICAL EXAMINATION CERTIFICATES.—Section 31311(a), as amended by sections 32205(b) and 32306(b) of this Act, is amended by adding at the end the following:

''(24) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall establish and maintain, as part of its driver information system, the capability to receive an electronic copy of a medical examiner's certificate, from a certified medical examiner, for each holder of a commercial driver's license issued by the State who operates or intends to operate in interstate commerce.''.

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Of the funds provided for Data and Technology Grants under section 31104(a) of title 49, United States Code, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to make grants to States or an organization representing agencies and officials of the States to support development costs of the information technology needed to carry out section 31311(a)(24) of title 49, United States Code, up to $1 million for fiscal year 2012 and up to $1 million for fiscal year 2013.

(2) PERIOD OF AVAILABILITY.—The amounts made available under this subsection shall remain available until expended.

SEC. 32304. COMMERCIAL DRIVER'S LICENSE NOTIFICATION SYSTEM.

(a) IN GENERAL.—Section 31304 is amended—

(1) by striking ''An employer'' and inserting the following:

''(a) IN GENERAL.—An employer''; and

(2) by adding at the end the following:

''(b) DRIVER VIOLATION RECORDS.—

''(1) PERIODIC REVIEW.—Except as provided in paragraph (3), an employer shall ascertain the driving record of each driver it employs—

''(A) by making an inquiry at least once every 12 months to the appropriate State agency in which the driver held or holds a commercial driver's license or permit during such time period;

''(B) by receiving occurrence-based reports of changes in the status of a driver's record from 1 or more driver record notification systems that meet minimum standards issued by the Secretary; or

''(C) by a combination of inquiries to States and reports from driver record notification systems.

''(2) RECORD KEEPING.—A copy of the reports received under paragraph (1) shall be maintained in the driver's qualification file.

''(3) EXCEPTIONS TO RECORD REVIEW REQUIREMENT.—Paragraph (1) shall not apply to a driver employed by an employer who, in any 7-day period, is employed or used as a driver by more than 1 employer—

''(A) if the employer obtains the driver's identification number, type, and issuing State of the driver's commercial motor vehicle license; or

''(B) if the information described in subparagraph (A) is furnished by another employer and the employer that regularly employs the driver meets the other requirements under this section.

''(4) DRIVER RECORD NOTIFICATION SYSTEM DEFINED.—In this section, the term 'driver record notification system' means a system that automatically furnishes an employer with a report, generated by the appropriate agency of a State, on the change in the status of an employee's driver's license due to a conviction for a moving violation, a failure to appear, an accident, driver's license suspension, driver's license revocation, or any other action taken against the driving privilege.''.

(b) STANDARDS FOR DRIVER RECORD NOTIFICATION SYSTEMS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue minimum standards for driver notification systems, including standards for the accuracy, consistency, and completeness of the information provided.

(c) PLAN FOR NATIONAL NOTIFICATION SYSTEM.—

(1) DEVELOPMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop recommendations and a plan for the development and implementation of a national driver record notification system, including—

(A) an assessment of the merits of achieving a national system by expanding the Commercial Driver's License Information System; and

(B) an estimate of the fees that an employer will be charged to offset the operating costs of the national system.

(2) SUBMISSION TO CONGRESS.—Not later than 90 days after the recommendations and plan are developed under paragraph (1), the Secretary shall submit a report on the recommendations and plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 32305. COMMERCIAL MOTOR VEHICLE OPERATOR TRAINING.

(a) IN GENERAL.—Section 31305 is amended by adding at the end the following:

''(c) STANDARDS FOR TRAINING.—Not later than 6 months after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue final regulations establishing minimum entry-level training requirements for an individual operating a commercial motor vehicle—

''(1) addressing the knowledge and skills that—

''(A) are necessary for an individual operating a commercial motor vehicle to safely operate a commercial motor vehicle; and

''(B) must be acquired before obtaining a commercial driver's license for the first time or upgrading from one class of commercial driver's license to another class;

''(2) addressing the specific training needs of a commercial motor vehicle operator seeking passenger or hazardous materials endorsements, including for an operator seeking a passenger endorsement training—

''(A) to suppress motorcoach fires; and

''(B) to evacuate passengers from motorcoaches safely;

''(3) requiring effective instruction to acquire the knowledge, skills, and training referred to in paragraphs (1) and (2), including classroom and behind-the-wheel instruction;

''(4) requiring certification that an individual operating a commercial motor vehicle meets the requirements established by the Secretary; and

''(5) requiring a training provider (including a public or private driving school, motor carrier, or owner or operator of a commercial motor vehicle) that offers training that results in the issuance of a certification to an individual under paragraph (4) to demonstrate that the training meets the requirements of the regulations, through a process established by the Secretary.''.

(b) COMMERCIAL DRIVER'S LICENSE UNIFORM STANDARDS.—Section 31308(1) is amended to read as follows:

''(1) an individual issued a commercial driver's license—

''(A) pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a); and

''(B) present certification of completion of driver training that meets the requirements established by the Secretary under section 31305(c);''.

(c) CONFORMING AMENDMENT.—The section heading for section 31305 is amended to read as follows:

''§ 31305. General driver fitness, testing, and training''.

(d) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by striking the item relating to section 31305 and inserting the following:

''31305. General driver fitness, testing, and training.''.

SEC. 32306. COMMERCIAL DRIVER'S LICENSE PROGRAM.

(a) IN GENERAL.—Section 31309 is amended—

(1) in subsection (e)(4), by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—The plan shall specify—

''(i) a date by which all States shall be operating commercial driver's license information systems that are compatible with the modernized information system under this section; and

''(ii) that States must use the systems to receive and submit conviction and disqualification data.''; and

(2) in subsection (f), by striking ''use'' and inserting ''use, subject to section 31313(a),''.

(b) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311 is amended—

(1) in subsection (a), as amended by section 32205(b) of this Act—

(A) in paragraph (5), by striking ''At least'' and all that follows through ''regulation),'' and inserting: ''Not later than the time period prescribed by the Secretary by regulation,''; and

(B) by adding at the end the following:

''(23) Not later than 1 year after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the State shall implement a system and practices for the exclusive electronic exchange of driver history record information on the system the Secretary maintains under section 31309, including the posting of convictions, withdrawals, and disqualifications.''; and

(2) by adding at the end the following:

''(d) CRITICAL REQUIREMENTS.—

''(1) IDENTIFICATION OF CRITICAL REQUIREMENTS.—After reviewing the requirements under subsection (a), including the regulations issued pursuant to subsection (a) and section 31309(e)(4), the Secretary shall identify the requirements that are critical to an effective State commercial driver's license program.

''(2) GUIDANCE.—Not later than 180 days after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall issue guidance to assist States in complying with the critical requirements identified under paragraph (1). The guidance shall include a description of the actions that each State must take to collect and share accurate and complete data in a timely manner.

''(e) STATE COMMERCIAL DRIVER'S LICENSE PROGRAM PLAN.—

''(1) IN GENERAL.—Not later than 180 days after the Secretary issues guidance under subsection (d)(2), a State shall submit a plan to the Secretary for complying with the requirements under this section during the period beginning on the date the plan is submitted and ending on September 30, 2016.

''(2) CONTENTS.—A plan submitted by a State under paragraph (1) shall identify—

''(A) the actions that the State will take to comply with the critical requirements identified under subsection (d)(1);

''(B) the actions that the State will take to address any deficiencies in the State's commercial driver's license program, as identified by the Secretary in the most recent audit of the program; and

''(C) other actions that the State will take to comply with the requirements under subsection (a).

''(3) PRIORITY.—

''(A) IMPLEMENTATION SCHEDULE.—A plan submitted by a State under paragraph (1) shall include a schedule for the implementation of the actions identified under paragraph (2). In establishing the schedule, the State shall prioritize the actions identified under paragraphs (2)(A) and (2)(B).

''(B) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—A plan submitted by a State under paragraph (1) shall include assurances that the State will take the necessary actions to comply with the critical requirements pursuant to subsection (d) not later than September 30, 2015.

''(4) APPROVAL AND DISAPPROVAL.—The Secretary shall—

''(A) review each plan submitted under paragraph (1);

''(B) approve a plan that the Secretary determines meets the requirements under this subsection and promotes the goals of this chapter; and

''(C) disapprove a plan that the Secretary determines does not meet the requirements or does not promote the goals.

''(5) MODIFICATION OF DISAPPROVED PLANS.—If the Secretary disapproves a plan under paragraph (4)(C), the Secretary shall—

''(A) provide a written explanation of the disapproval to the State; and

''(B) allow the State to modify the plan and resubmit it for approval.

''(6) PLAN UPDATES.—The Secretary may require a State to review and update a plan, as appropriate.

''(f) ANNUAL COMPARISON OF STATE LEVELS OF COMPLIANCE.—The Secretary shall annually—

''(1) compare the relative levels of compliance by States with the requirements under subsection (a); and

''(2) make the results of the comparison available to the public.''.

(c) DECERTIFICATION AUTHORITY.—Section 31312 is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

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

''(b) DEADLINE FOR COMPLIANCE WITH CRITICAL REQUIREMENTS.—Beginning on October 1, 2016, in making a determination under subsection (a), the Secretary shall consider a State to be in substantial noncompliance with this chapter if the Secretary determines that—

''(1) the State is not complying with a critical requirement under section 31311(d)(1); and

''(2) sufficient grant funding was made available to the State under section 31313(a) to comply with the requirement.''.

SEC. 32307. COMMERCIAL DRIVER'S LICENSE REQUIREMENTS.

(a) LICENSING STANDARDS.—Section 31305(a)(7) is amended by inserting ''would not be subject to a disqualification under section 31310(g) of this title and'' after ''taking the tests''.

(b) DISQUALIFICATIONS.—Section 31310(g)(1) is amended by deleting ''who holds a commercial driver's license and''.

SEC. 32308. COMMERCIAL MOTOR VEHICLE DRIVER INFORMATION SYSTEMS.

Section 31106(c) is amended—

(1) by striking the subsection heading and inserting ''(1) IN GENERAL.—'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D); and

(3) by adding at the end the following:

''(2) ACCESS TO RECORDS.—The Secretary may require a State, as a condition of an award of grant money under this section, to provide the Secretary access to all State licensing status and driver history records via an electronic information system, subject to section 2721 of title 18.''.

SEC. 32309. DISQUALIFICATIONS BASED ON NON-COMMERCIAL MOTOR VEHICLE OPERATIONS.

(a) FIRST OFFENSE.—Section 31310(b)(1)(D) is amended by deleting ''commercial'' after ''revoked, suspended, or canceled based on the individual's operation of a,'' and before ''motor vehicle''.

(b) SECOND OFFENSE.—Section 31310(c)(1)(D) is amended by deleting ''commercial'' after ''revoked, suspended, or canceled based on the individual's operation of a,'' and before ''motor vehicle''.

SEC. 32310. FEDERAL DRIVER DISQUALIFICATIONS.

(a) DISQUALIFICATION DEFINED.—Section 31301, as amended by section 32205 of this Act, is amended—

(1) by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) 'Disqualification' means—

''(A) the suspension, revocation, or cancellation of a commercial driver's license by the State of issuance;

''(B) a withdrawal of an individual's privilege to drive a commercial motor vehicle by a State or other jurisdiction as the result of a violation of State or local law relating to motor vehicle traffic control, except for a parking, vehicle weight, or vehicle defect violation;

''(C) a determination by the Secretary that an individual is not qualified to operate a commercial motor vehicle; or

''(D) a determination by the Secretary that a commercial motor vehicle driver is unfit under section 31144(g).''.

(b) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM CONTENTS.—Section 31309(b)(1)(F) is amended by inserting after ''disqualified'' the following: ''by the State that issued the individual a commercial driver's license, or by the Secretary,''.

(c) STATE ACTION ON FEDERAL DISQUALIFICATION.—Section 31310(h) is amended by inserting after the first sentence the following:

''If the State has not disqualified the individual from operating a commercial vehicle under subsections (b) through (g), the State shall disqualify the individual if the Secretary determines under section 31144(g) that the individual is disqualified from operating a commercial motor vehicle.''.

SEC. 32311. EMPLOYER RESPONSIBILITIES.

Section 31304, as amended by section 32304 of this Act, is amended in subsection (a)—

(1) by striking ''knowingly''; and

(2) by striking ''in which'' and inserting ''that the employer knows or should reasonably know that''.

SEC. 32312. IMPROVING AND EXPEDITING SAFETY ASSESSMENTS IN THE COMMERCIAL DRIVER'S LICENSE APPLICATION PROCESS FOR MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.

(a) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary, in coordination with the Secretary of Defense, and in consultation with the States and other relevant stakeholders, shall commence a study to assess Federal and State regulatory, economic, and administrative challenges faced by members and former members of the Armed Forces, who received safety training and operated qualifying motor vehicles during their service, in obtaining commercial driver's licenses (as defined in section 31301(3) of title 49, United States Code).

(2) REQUIREMENTS.—The study under this subsection shall—

(A) identify written and behind-the-wheel safety training, qualification standards, knowledge and skills tests, or other operating experience members of the Armed Forces must meet that satisfy the minimum standards prescribed by the Secretary of Transportation for the operation of commercial motor vehicles under section 31305 of title 49, United States Code;

(B) compare the alcohol and controlled substances testing requirements for members of the Armed Forces with those required for holders of a commercial driver's license;

(C) evaluate the cause of delays in reviewing applications for commercial driver's licenses of members and former members of the Armed Forces;

(D) identify duplicative application costs;

(E) identify residency, domicile, training and testing requirements, and other safety or health assessments that affect or delay the issuance of commercial driver's licenses to members and former members of the Armed Forces; and

(F) include other factors that the Secretary determines to be appropriate to meet the requirements of the study.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the commencement of the study under subsection (a), the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Financial Services of the House of Representatives that contains the findings and recommendations from the study.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) findings related to the study requirements under subsection (a)(2);

(B) recommendations for the Federal and State legislative, regulatory, and administrative actions necessary to address challenges identified in subparagraph (A); and

(C) a plan to implement the recommendations for which the Secretary has authority.

(c) IMPLEMENTATION.—Upon the completion of the report under subsection (b), the Secretary shall implement the plan described in subsection (b)(2)(C).

Subtitle D—Safe Roads Act of 2012

SEC. 32401. SHORT TITLE.

This subtitle may be cited as the ''Safe Roads Act of 2012''.

SEC. 32402. NATIONAL CLEARINGHOUSE FOR CONTROLLED SUBSTANCE AND ALCOHOL TEST RESULTS OF COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) IN GENERAL.—Chapter 313 is amended—

(1) in section 31306(a), by inserting ''and section 31306a'' after ''this section''; and

(2) by inserting after section 31306 the following:

''§ 31306a. National clearinghouse for controlled substance and alcohol test results of commercial motor vehicle operators

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Safe Roads Act of 2012, the Secretary of Transportation shall establish a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators.

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

''(A) to improve compliance with the Department of Transportation's alcohol and controlled substances testing program applicable to commercial motor vehicle operators;

''(B) to facilitate access to information about an individual before employing the individual as a commercial motor vehicle operator;

''(C) to enhance the safety of our United States roadways by reducing accident fatalities involving commercial motor vehicles; and

''(D) to reduce the number of impaired commercial motor vehicle operators.

''(3) CONTENTS.—The clearinghouse shall function as a repository for records relating to the positive test results and test refusals of commercial motor vehicle operators and violations by such operators of prohibitions set forth in subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(4) ELECTRONIC EXCHANGE OF RECORDS.—The Secretary shall ensure that records can be electronically submitted to, and requested from, the clearinghouse by authorized users.

''(5) AUTHORIZED OPERATOR.—The Secretary may authorize a qualified and experienced private entity to operate and maintain the clearinghouse and to collect fees on behalf of the Secretary under subsection (e). The entity shall establish, operate, maintain and expand the clearinghouse and permit access to driver information and records from the clearinghouse in accordance with this section.

''(b) DESIGN OF CLEARINGHOUSE.—

''(1) USE OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION RECOMMENDATIONS.—In establishing the clearinghouse, the Secretary shall consider—

''(A) the findings and recommendations contained in the Federal Motor Carrier Safety Administration's March 2004 report to Congress required under section 226 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31306 note); and

''(B) the findings and recommendations contained in the Government Accountability Office's May 2008 report to Congress entitled 'Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road.'.

''(2) DEVELOPMENT OF SECURE PROCESSES.—In establishing the clearinghouse, the Secretary shall develop a secure process for—

''(A) administering and managing the clearinghouse in compliance with applicable Federal security standards;

''(B) registering and authenticating authorized users of the clearinghouse;

''(C) registering and authenticating persons required to report to the clearinghouse under subsection (g);

''(D) preventing the unauthorized access of information from the clearinghouse;

''(E) storing and transmitting data;

''(F) persons required to report to the clearinghouse under subsection (g) to timely and accurately submit electronic data to the clearinghouse;

''(G) generating timely and accurate reports from the clearinghouse in response to requests for information by authorized users; and

''(H) updating an individual's record upon completion of the return-to-duty process described in title 49, Code of Federal Regulations.

''(3) EMPLOYER ALERT OF POSITIVE TEST RESULT.—In establishing the clearinghouse, the Secretary shall develop a secure method for electronically notifying an employer of each additional positive test result or other noncompliance—

''(A) for an employee, that is entered into the clearinghouse during the 7-day period immediately following an employer's inquiry about the employee; and

''(B) for an employee who is listed as having multiple employers.

''(4) ARCHIVE CAPABILITY.—In establishing the clearinghouse, the Secretary shall develop a process for archiving all clearinghouse records, including the depositing of personal records, records relating to each individual in the database, and access requests for personal records, for the purposes of—

''(A) auditing and evaluating the timeliness, accuracy, and completeness of data in the clearinghouse; and

''(B) auditing to monitor compliance and enforce penalties for noncompliance.

''(5) FUTURE NEEDS.—

''(A) INTEROPERABILITY WITH OTHER DATA SYSTEMS.—In establishing the clearinghouse, the Secretary shall consider—

''(i) the existing data systems containing regulatory and safety data for commercial motor vehicle operators;

''(ii) the efficacy of using or combining clearinghouse data with 1 or more of such systems; and

''(iii) the potential interoperability of the clearinghouse with such systems.

''(B) SPECIFIC CONSIDERATIONS.—In carrying out subparagraph (A), the Secretary shall determine—

''(i) the clearinghouse's capability for interoperability with—

''(I) the National Driver Register established under section 30302;

''(II) the Commercial Driver's License Information System established under section 31309;

''(III) the Motor Carrier Management Information System for preemployment screening services under section 31150; and

''(IV) other data systems, as appropriate; and

''(ii) any change to the administration of the current testing program, such as forms, that is necessary to collect data for the clearinghouse.

''(c) STANDARD FORMATS.—The Secretary shall develop standard formats to be used—

''(1) by an authorized user of the clearinghouse to—

''(A) request a record from the clearinghouse; and

''(B) obtain the consent of an individual who is the subject of a request from the clearinghouse, if applicable; and

''(2) to notify an individual that a positive alcohol or controlled substances test result, refusing to test, and a violation of any of the prohibitions under subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations), will be reported to the clearinghouse.

''(d) PRIVACY.—A release of information from the clearinghouse shall—

''(1) comply with applicable Federal privacy laws, including the fair information practices under the Privacy Act of 1974 (5 U.S.C. 552a);

''(2) comply with applicable sections of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); and

''(3) not be made to any person or entity unless expressly authorized or required by law.

''(e) FEES.—

''(1) AUTHORITY TO COLLECT FEES.—Except as provided under paragraph (3), the Secretary may collect a reasonable, customary, and nominal fee from an authorized user of the clearinghouse for a request for information from the clearinghouse.

''(2) USE OF FEES.—Fees collected under this subsection shall be used for the operation and maintenance of the clearinghouse.

''(3) LIMITATION.—The Secretary may not collect a fee from an individual requesting information from the clearinghouse that pertains to the record of that individual.

''(f) EMPLOYER REQUIREMENTS.—

''(1) DETERMINATION CONCERNING USE OF CLEARINGHOUSE.—The Secretary shall determine if an employer is authorized to use the clearinghouse to meet the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

''(2) APPLICABILITY OF EXISTING REQUIREMENTS.—Each employer and service agent shall comply with the alcohol and controlled substances testing requirements under title 49, Code of Federal Regulations.

''(3) EMPLOYMENT PROHIBITIONS.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall not hire an individual to operate a commercial motor vehicle unless the employer determines that the individual, during the preceding 3-year period—

''(A) if tested for the use of alcohol and controlled substances, as required under title 49, Code of Federal Regulations—

''(i) did not test positive for the use of alcohol or controlled substances in violation of the regulations; or

''(ii) tested positive for the use of alcohol or controlled substances and completed the required return-to-duty process under title 49, Code of Federal Regulations;

''(B)(i) did not refuse to take an alcohol or controlled substance test under title 49, Code of Federal Regulations; or

''(ii) refused to take an alcohol or controlled substance test and completed the required return-to-duty process under title 49, Code of Federal Regulations; and

''(C) did not violate any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(4) ANNUAL REVIEW.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), an employer shall request and review a commercial motor vehicle operator's record from the clearinghouse annually for as long as the commercial motor vehicle operator is under the employ of the employer.

''(g) REPORTING OF RECORDS.—

''(1) IN GENERAL.—Beginning 30 days after the date that the clearinghouse is established under subsection (a), a medical review officer, employer, service agent, and other appropriate person, as determined by the Secretary, shall promptly submit to the Secretary any record generated after the clearinghouse is initiated of an individual who—

''(A) refuses to take an alcohol or controlled substances test required under title 49, Code of Federal Regulations;

''(B) tests positive for alcohol or a controlled substance in violation of the regulations; or

''(C) violates any other provision of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(2) INCLUSION OF RECORDS IN CLEARINGHOUSE.—The Secretary shall include in the clearinghouse the records of positive test results and test refusals received under paragraph (1).

''(3) MODIFICATIONS AND DELETIONS.—If the Secretary determines that a record contained in the clearinghouse is not accurate, the Secretary shall modify or delete the record, as appropriate.

''(4) NOTIFICATION.—The Secretary shall expeditiously notify an individual, unless such notification would be duplicative, when—

''(A) a record relating to the individual is received by the clearinghouse;

''(B) a record in the clearinghouse relating to the individual is modified or deleted, and include in the notification the reason for the modification or deletion; or

''(C) a record in the clearinghouse relating to the individual is released to an employer and specify the reason for the release.

''(5) DATA QUALITY AND SECURITY STANDARDS FOR REPORTING AND RELEASING.—The Secretary may establish additional requirements, as appropriate, to ensure that—

''(A) the submission of records to the clearinghouse is timely and accurate;

''(B) the release of data from the clearinghouse is timely, accurate, and released to the appropriate authorized user under this section; and

''(C) an individual with a record in the clearinghouse has a cause of action for any inappropriate use of information included in the clearinghouse.

''(6) RETENTION OF RECORDS.—The Secretary shall—

''(A) retain a record submitted to the clearinghouse for a 5-year period beginning on the date the record is submitted;

''(B) remove the record from the clearinghouse at the end of the 5-year period, unless the individual fails to meet a return-to-duty or follow-up requirement under title 49, Code of Federal Regulations; and

''(C) retain a record after the end of the 5-year period in a separate location for archiving and auditing purposes.

''(h) AUTHORIZED USERS.—

''(1) EMPLOYERS.—The Secretary shall establish a process for an employer to request and receive an individual's record from the clearinghouse.

''(A) CONSENT.—An employer may not access an individual's record from the clearinghouse unless the employer—

''(i) obtains the prior written or electronic consent of the individual for access to the record; and

''(ii) submits proof of the individual's consent to the Secretary.

''(B) ACCESS TO RECORDS.—After receiving a request from an employer for an individual's record under subparagraph (A), the Secretary shall grant access to the individual's record to the employer as expeditiously as practicable.

''(C) RETENTION OF RECORD REQUESTS.—The Secretary shall require an employer to retain for a 3-year period—

''(i) a record of each request made by the employer for records from the clearinghouse; and

''(ii) the information received pursuant to the request.

''(D) USE OF RECORDS.—An employer may use an individual's record received from the clearinghouse only to assess and evaluate the qualifications of the individual to operate a commercial motor vehicle for the employer.

''(E) PROTECTION OF PRIVACY OF INDIVIDUALS.—An employer that receives an individual's record from the clearinghouse under subparagraph (B) shall—

''(i) protect the privacy of the individual and the confidentiality of the record; and

''(ii) ensure that information contained in the record is not divulged to a person or entity that is not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle for the employer.

''(2) STATE LICENSING AUTHORITIES.—The Secretary shall establish a process for the chief commercial driver's licensing official of a State to request and receive an individual's record from the clearinghouse if the individual is applying for a commercial driver's license from the State.

''(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

''(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—A chief commercial driver's licensing official of a State that receives an individual's record from the clearinghouse under this paragraph shall—

''(i) protect the privacy of the individual and the confidentiality of the record; and

''(ii) ensure that the information in the record is not divulged to any person that is

not directly involved in assessing and evaluating the qualifications of the individual to operate a commercial motor vehicle.

''(3) NATIONAL TRANSPORTATION SAFETY BOARD.—The Secretary shall establish a process for the National Transportation Safety Board to request and receive an individual's record from the clearinghouse if the individual is involved in an accident that is under investigation by the National Transportation Safety Board.

''(A) CONSENT.—The Secretary may grant access to an individual's record in the clearinghouse under this paragraph without the prior written or electronic consent of the individual. An individual who holds a commercial driver's license shall be deemed to consent to such access by obtaining a commercial driver's license.

''(B) PROTECTION OF PRIVACY OF INDIVIDUALS.—An official of the National Transportation Safety Board that receives an individual's record from the clearinghouse under this paragraph shall—

''(i) protect the privacy of the individual and the confidentiality of the record; and

''(ii) unless the official determines that the information in the individual's record should be reported under section 1131(e), ensure that the information in the record is not divulged to any person that is not directly involved with investigating the accident.

''(4) ADDITIONAL AUTHORIZED USERS.—The Secretary shall consider whether to grant access to the clearinghouse to additional users. The Secretary may authorize access to an individual's record from the clearinghouse to an additional user if the Secretary determines that granting access will further the purposes under subsection (a)(2). In determining whether the access will further the purposes under subsection (a)(2), the Secretary shall consider, among other things—

''(A) what use the additional user will make of the individual's record;

''(B) the costs and benefits of the use; and

''(C) how to protect the privacy of the individual and the confidentiality of the record.

''(i) ACCESS TO CLEARINGHOUSE BY INDIVIDUALS.—

''(1) IN GENERAL.—The Secretary shall establish a process for an individual to request and receive information from the clearinghouse—

''(A) to determine whether the clearinghouse contains a record pertaining to the individual;

''(B) to verify the accuracy of a record;

''(C) to update an individual's record, including completing the return-to-duty process described in title 49, Code of Federal Regulations; and

''(D) to determine whether the clearinghouse received requests for the individual's information.

''(2) DISPUTE PROCEDURE.—The Secretary shall establish a procedure, including an appeal process, for an individual to dispute and remedy an administrative error in the individual's record.

''(j) PENALTIES.—

''(1) IN GENERAL.—An employer, employee, medical review officer, or service agent who violates any provision of this section shall be subject to civil penalties under section 521(b)(2)(C) and criminal penalties under section 521(b)(6)(B), and any other applicable civil and criminal penalties, as determined by the Secretary.

''(2) VIOLATION OF PRIVACY.—The Secretary shall establish civil and criminal penalties, consistent with paragraph (1), for an authorized user who violates paragraph (2)(B) or (3)(B) of subsection (h).

''(k) COMPATIBILITY OF STATE AND LOCAL LAWS.—

''(1) PREEMPTION.—Except as provided under paragraph (2), any law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe related to a commercial driver's license holder subject to alcohol or controlled substance testing under title 49, Code of Federal Regulations, that is inconsistent with this section or a regulation issued pursuant to this section is preempted.

''(2) APPLICABILITY.—The preemption under paragraph (1) shall include—

''(A) the reporting of valid positive results from alcohol screening tests and drug tests;

''(B) the refusal to provide a specimen for an alcohol screening test or drug test; and

''(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(3) EXCEPTION.—A law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe shall not be preempted under this subsection to the extent it relates to an action taken with respect to a commercial motor vehicle operator's commercial driver's license or driving record as a result of the driver's—

''(A) verified positive alcohol or drug test result;

''(B) refusal to provide a specimen for the test; or

''(C) other violations of subpart B of part 382 of title 49, Code of Federal Regulations (or any subsequent corresponding regulations).

''(l) DEFINITIONS.—In this section—

''(1) AUTHORIZED USER.—The term 'authorized user' means an employer, State licensing authority, National Transportation Safety Board, or other person granted access to the clearinghouse under subsection (h).

''(2) CHIEF COMMERCIAL DRIVER'S LICENSING OFFICIAL.—The term 'chief commercial driver's licensing official' means the official in a State who is authorized to—

''(A) maintain a record about commercial driver's licenses issued by the State; and

''(B) take action on commercial driver's licenses issued by the State.

''(3) CLEARINGHOUSE.—The term 'clearinghouse' means the clearinghouse established under subsection (a).

''(4) COMMERCIAL MOTOR VEHICLE OPERATOR.—The term 'commercial motor vehicle operator' means an individual who—

''(A) possesses a valid commercial driver's license issued in accordance with section 31308; and

''(B) is subject to controlled substances and alcohol testing under title 49, Code of Federal Regulations.

''(5) EMPLOYER.—The term 'employer' means a person or entity employing, or seeking to employ, 1 or more employees (including an individual who is self-employed) to be commercial motor vehicle operators.

''(6) MEDICAL REVIEW OFFICER.—The term 'medical review officer' means a licensed physician who is responsible for—

''(A) receiving and reviewing a laboratory result generated under the testing program;

''(B) evaluating a medical explanation for a controlled substances test under title 49, Code of Federal Regulations; and

''(C) interpreting the results of a controlled substances test.

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(8) SERVICE AGENT.—The term 'service agent' means a person or entity, other than an employee of the employer, who provides services to employers or employees under the testing program.

''(9) TESTING PROGRAM.—The term 'testing program' means the alcohol and controlled substances testing program required under title 49, Code of Federal Regulations.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 313 is amended by inserting after the item relating to section 31306 the following:

''31306a. National clearinghouse for positive controlled substance and alcohol test results of commercial motor vehicle operators.''.

SEC. 32403. DRUG AND ALCOHOL VIOLATION SANCTIONS.

Chapter 313 is amended—

(1) by redesignating section 31306(f) as 31306(f)(1); and

(2) by inserting after section 31306(f)(1) the following:

''(2) ADDITIONAL SANCTIONS.—The Secretary may require a State to revoke, suspend, or cancel the commercial driver's license of a commercial motor vehicle operator who is found, based on a test conducted and confirmed under this section, to have used alcohol or a controlled substance in violation of law until the commercial motor vehicle operator completes the rehabilitation process under subsection (e).''; and

(3) by amending section 31310(d) to read as follows:

''(d) CONTROLLED SUBSTANCE VIOLATIONS.—The Secretary may permanently disqualify an individual from operating a commercial vehicle if the individual—

''(1) uses a commercial motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance; or

''(2) uses alcohol or a controlled substance, in violation of section 31306, 3 or more times.''.

SEC. 32404. AUTHORIZATION OF APPROPRIATIONS.

From the funds authorized to be appropriated under section 31104(h) of title 49, United States Code, up to $5,000,000 is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to develop, design, and implement the national clearinghouse required by section 32402 of this Act.

Subtitle E—Enforcement

SEC. 32501. INSPECTION DEMAND AND DISPLAY OF CREDENTIALS.

(a) SAFETY INVESTIGATIONS.—Section 504(c) is amended—

(1) by inserting '', or an employee of the recipient of a grant issued under section 31102 of this title'' after ''a contractor''; and

(2) by inserting '', in person or in writing'' after ''proper credentials''.

(b) CIVIL PENALTY.—Section 521(b)(2)(E) is amended—

(1) by redesignating subparagraph (E) as subparagraph (E)(i); and

(2) by adding at the end the following:

''(ii) PLACE OUT OF SERVICE.—The Secretary may by regulation adopt procedures for placing out of service the commercial motor vehicle of a foreign-domiciled motor carrier that fails to promptly allow the Secretary to inspect and copy a record or inspect equipment, land, buildings, or other property.''.

(c) HAZARDOUS MATERIALS INVESTIGATIONS.—Section 5121(c)(2) is amended by inserting '', in person or in writing,'' after ''proper credentials''.

(d) COMMERCIAL INVESTIGATIONS.—Section 14122(b) is amended by inserting '', in person or in writing'' after ''proper credentials''.

SEC. 32502. OUT OF SERVICE PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2)(E) is amended—

(1) by inserting after ''$10,000.'' the following: ''In the case of a motor carrier, the Secretary may also place the violator's motor carrier operations out of service.''; and

(2) by striking ''such penalty'' after ''It shall be a defense to'' and inserting ''a penalty''.

SEC. 32503. PENALTIES FOR VIOLATION OF OPERATION OUT OF SERVICE ORDERS.

Section 521(b)(2) is amended by adding at the end the following:

''(F) PENALTY FOR VIOLATIONS RELATING TO OUT OF SERVICE ORDERS.—A motor carrier or employer (as defined in section 31132) that operates a commercial motor vehicle in commerce in violation of a prohibition on transportation under section 31144(c) of this title or an imminent hazard out of service order issued under subsection (b)(5) of this section or section 5121(d) of this title shall be liable for a civil penalty not to exceed $25,000.''.

SEC. 32504. MINIMUM PROHIBITION ON OPERATION FOR UNFIT CARRIERS.

(a) IN GENERAL.—Section 31144(c)(1) is amended by inserting '', and such period shall be for not less than 10 days'' after ''operator is fit''.

(b) OWNERS OR OPERATORS TRANSPORTING PASSENGERS.—Section 31144(c)(2) is amended by inserting '', and such period shall be for not less than 10 days'' after ''operator is fit''.

(c) OWNERS OR OPERATORS TRANSPORTING HAZARDOUS MATERIAL.—Section 31144(c)(3) is amended by inserting before the period at the end of the first sentence the following: '', and such period shall be for not less than 10 days''.

SEC. 32505. MINIMUM OUT OF SERVICE PENALTIES.

Section 521(b)(7) is amended by adding at the end the following:

''The penalties may include a minimum duration for any out of service period, not to exceed 90 days.''.

SEC. 32506. IMPOUNDMENT AND IMMOBILIZATION OF COMMERCIAL MOTOR VEHICLES FOR IMMINENT HAZARD.

Section 521(b) is amended by adding at the end the following:

''(15) IMPOUNDMENT OF COMMERCIAL MOTOR VEHICLES.—

''(A) ENFORCEMENT OF IMMINENT HAZARD OUT-OF-SERVICE ORDERS.—

''(i) The Secretary, or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, may enforce an imminent hazard out-of-service order issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder, by towing and impounding a commercial motor vehicle until the order is rescinded.

''(ii) Enforcement shall not unreasonably interfere with the ability of a shipper, carrier, broker, or other party to arrange for the alternative transportation of any cargo or passenger being transported at the time the commercial motor vehicle is immobilized. In the case of a commercial motor vehicle transporting passengers, the Secretary or authorized State official shall provide reasonable, temporary, and secure shelter and accommodations for passengers in transit.

''(iii) The Secretary's designee or an authorized State official carrying out motor carrier safety enforcement activities under section 31102, shall immediately notify the owner of a commercial motor vehicle of the impoundment and the opportunity for review of the impoundment. A review shall be provided in accordance with section 554 of title 5, except that the review shall occur not later than 10 days after the impoundment.

''(B) ISSUANCE OF REGULATIONS.—The Secretary shall promulgate regulations on the use of impoundment or immobilization of commercial motor vehicles as a means of enforcing additional out-of-service orders issued under chapters 5, 51, 131 through 149, 311, 313, or 315 of this title, or a regulation promulgated thereunder. Regulations promulgated under this subparagraph shall include consideration of public safety, the protection of passengers and cargo, inconvenience to passengers, and the security of the commercial motor vehicle.

''(C) DEFINITION.—In this paragraph, the term 'impoundment' or 'impounding' means the seizing and taking into custody of a commercial motor vehicle or the immobilizing of a commercial motor vehicle through the attachment of a locking device or other mechanical or electronic means.''.

SEC. 32507. INCREASED PENALTIES FOR EVASION OF REGULATIONS.

(a) PENALTIES.—Section 524 is amended—

(1) by striking ''knowingly and willfully'';

(2) by inserting after ''this chapter'' the following: '', chapter 51, subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502 of this title, or a regulation issued under any of those provisions,'';

(3) by striking ''$200 but not more than $500'' and inserting ''$2,000 but not more than $5,000''; and

(4) by striking ''$250 but not more than $2,000'' and inserting ''$2,500 but not more than $7,500''.

(b) EVASION OF REGULATION.—Section 14906 is amended—

(1) by striking ''$200'' and inserting ''at least $2,000'';

(2) by striking ''$250'' and inserting ''$5,000''; and

(3) by inserting after ''a subsequent violation'' the following:

'', and may be subject to criminal penalties''.

SEC. 32508. FAILURE TO PAY CIVIL PENALTY AS A DISQUALIFYING OFFENSE.

(a) IN GENERAL.—Chapter 311 is amended by inserting after section 31151 the following:

''§ 31152. Disqualification for failure to pay

''An individual assessed a civil penalty under this chapter, or chapters 5, 51, or 149 of this title, or a regulation issued under any of those provisions, who fails to pay the penalty or fails to comply with the terms of a settlement with the Secretary, shall be disqualified from operating a commercial motor vehicle after the individual is notified in writing and is given an opportunity to respond. A disqualification shall continue until the penalty is paid, or the individual complies with the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.''.

(b) TECHNICAL AMENDMENTS.—Section 31310, as amended by sections 32206 and 32310 of this Act, is amended—

(1) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively; and

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

''(h) DISQUALIFICATION FOR FAILURE TO PAY.—The Secretary shall disqualify from operating a commercial motor vehicle any individual who fails to pay a civil penalty within the prescribed period, or fails to conform to the terms of a settlement with the Secretary. A disqualification shall continue until the penalty is paid, or the individual conforms to the terms of the settlement, unless the nonpayment is because the individual is a debtor in a case under chapter 11 of title 11, United States Code.''; and

(3) in subsection (i), as redesignated, by striking ''Notwithstanding subsections (b) through (g)'' and inserting ''Notwithstanding subsections (b) through (h)''.

(c) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31151 the following:

''31152. Disqualification for failure to pay.''.

SEC. 32509. VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.

Section 521(b)(2)(D) is amended by striking ''ability to pay,''.

SEC. 32510. EMERGENCY DISQUALIFICATION FOR IMMINENT HAZARD.

Section 31310(f) is amended—

(1) in paragraph (1) by inserting ''section 521 or'' before ''section 5102''; and

(2) in paragraph (2) by inserting ''section 521 or'' before ''section 5102''.

SEC. 32511. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) PROHIBITED TRANSPORTATION.—Section 521(b)(5) is amended by inserting after subparagraph (B) the following:

''(C) If an employee, vehicle, or all or part of an employer's commercial motor vehicle operations is ordered out of service under paragraph (5)(A), the commercial motor vehicle operations of the employee, vehicle, or employer that affect interstate commerce are also prohibited.''.

(b) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—Section 521(b)(8) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following:

''(B) ADDITIONAL PROHIBITION.—A person prohibited from operating in interstate commerce under paragraph (8)(A) may not operate any commercial motor vehicle where the operation affects interstate commerce.''.

SEC. 32512. ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.

(a) ENFORCEMENT OF SAFETY LAWS AND REGULATIONS.—Chapter 311, as amended by sections 32113 and 32508 of this Act, is amended by adding after section 31153 the following:

''§ 31154. Enforcement of safety laws and regulations

''(a) IN GENERAL.—The Secretary may bring a civil action to enforce this part, or a regulation or order of the Secretary under this part, when violated by an employer, employee, or other person providing transportation or service under this subchapter or subchapter I.

''(b) VENUE.—In a civil action under subsection (a)—

''(1) trial shall be in the judicial district in which the employer, employee, or other person operates;

''(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

''(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31153 the following:

''31154. Enforcement of safety laws and regulations.''.

SEC. 32513. DISCLOSURE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

Section 31106(e) is amended—

(1) by redesignating subsection (e) as subsection (e)(1); and

(2) by inserting at the end the following:

''(2) IN GENERAL.—Notwithstanding any prohibition on disclosure of information in section 31105(h) or 31143(b) of this title or section 552a of title 5, the Secretary may disclose information maintained by the Secretary pursuant to chapters 51, 135, 311, or 313 of this title to appropriate personnel of a State agency or instrumentality authorized to carry out State commercial motor vehicle safety activities and commercial driver's license laws, or appropriate personnel of a

local law enforcement agency, in accordance with standards, conditions, and procedures as determined by the Secretary. Disclosure under this section shall not operate as a waiver by the Secretary of any applicable privilege against disclosure under common law or as a basis for compelling disclosure under section 552 of title 5.''.

Subtitle F—Compliance, Safety, Accountability

SEC. 32601. COMPLIANCE, SAFETY, ACCOUNTABILITY.

(a) IN GENERAL.—Section 31102 is amended—

(1) by amending the section heading to read:

''§ 31102. Compliance, safety, and accountability grants'';

(2) by amending subsection (a) to read as follows:

''(a) GENERAL AUTHORITY.—Subject to this section, the Secretary of Transportation shall make and administer a compliance, safety, and accountability grant program to assist States, local governments, and other entities and persons with motor carrier safety and enforcement on highways and other public roads, new entrant safety audits, border enforcement, hazardous materials safety and security, consumer protection and household goods enforcement, and other programs and activities required to improve the safety of motor carriers as determined by the Secretary. The Secretary shall allocate funding in accordance with section 31104 of this title.'';

(3) in subsection (b)—

(A) by amending the heading to read as follows:

''(b) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—'';

(B) by redesignating paragraphs (1) through (3) as (2) through (4), respectively;

(C) by inserting before paragraph (2), as redesignated, the following:

''(1) PROGRAM GOAL.—The goal of the Motor Carrier Safety Assistance Program is to ensure that the Secretary, States, local government agencies, and other political jurisdictions work in partnership to establish programs to improve motor carrier, commercial motor vehicle, and driver safety to support a safe and efficient surface transportation system by—

''(A) making targeted investments to promote safe commercial motor vehicle transportation, including transportation of passengers and hazardous materials;

''(B) investing in activities likely to generate maximum reductions in the number and severity of commercial motor vehicle crashes and fatalities resulting from such crashes;

''(C) adopting and enforcing effective motor carrier, commercial motor vehicle, and driver safety regulations and practices consistent with Federal requirements; and

''(D) assessing and improving statewide performance by setting program goals and meeting performance standards, measures, and benchmarks.'';

(D) in paragraph (2), as redesignated—

(i) by striking ''make a declaration of'' in subparagraph (I) and inserting ''demonstrate'';

(ii) by amending subparagraph (M) to read as follows:

''(M) ensures participation in appropriate Federal Motor Carrier Safety Administration systems and other information systems by all appropriate jurisdictions receiving Motor Carrier Safety Assistance Program funding;'';

(iii) in subparagraph (Q), by inserting ''and dedicated sufficient resources to'' between ''established'' and ''a program'';

(iv) in subparagraph (W), by striking ''and'' after the semicolon;

(v) by amending subparagraph (X) to read as follows:

''(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, weigh station, rest stop, turnpike service area, or a location where adequate food, shelter, and sanitation facilities are available for passengers, and reasonable accommodation is available for passengers with disabilities; and''; and

(vi) by adding after subparagraph (X) the following:

''(Y) ensures that the State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to section 31315(b) and provided to the State by the Secretary, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.''; and

(E) by amending paragraph (4), as redesignated, to read as follows:

''(4) MAINTENANCE OF EFFORT.—

''(A) IN GENERAL.—A plan submitted by a State under paragraph (2) shall provide that the total expenditure of amounts of the lead State agency responsible for implementing the plan will be maintained at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005.

''(B) AVERAGE LEVEL OF STATE EXPENDITURES.—In estimating the average level of State expenditure under subparagraph (A), the Secretary—

''(i) may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot programs; and

''(ii) shall require the State to exclude State matching amounts used to receive Government financing under this subsection.

''(C) WAIVER.—Upon the request of a State, the Secretary may waive or modify the requirements of this paragraph for 1 fiscal year, if the Secretary determines that a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the State motor carrier safety assistance program agency.'';

(4) by redesignating subsection (e) as subsection (h); and

(5) by inserting after subsection (d) the following:

''(e) NEW ENTRANT SAFETY ASSURANCE PROGRAM.—

''(1) PROGRAM GOAL.—The Secretary may make grants to States and local governments for pre-authorization safety audits and new entrant motor carrier audits as described in section 31144(g).

''(2) RECIPIENTS.—Grants made in support of this program may be provided to States and local governments.

''(3) FEDERAL SHARE.—The Federal share of a grant made under this program is 100 percent.

''(4) ELIGIBLE ACTIVITIES.—Eligible activities will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

''(5) DETERMINATION.—If the Secretary determines that a State or local government is unable to conduct a new entrant motor carrier audit, the Secretary may use the funds to conduct the audit.

''(f) BORDER ENFORCEMENT.—

''(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

''(2) RECIPIENTS.—The Secretary of Transportation may make a grant to an entity, State, or other person for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

''(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 100 percent of the costs incurred in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

''(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria developed by the Secretary and posted in the Federal Register in advance of the grant application period.

''(g) HIGH PRIORITY INITIATIVES.—

''(1) PROGRAM GOAL.—The Secretary may make grants to carry out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that—

''(A) are national in scope;

''(B) increase public awareness and education;

''(C) target unsafe driving of commercial motor vehicles and non-commercial motor vehicles in areas identified as high risk crash corridors;

''(D) improve consumer protection and enforcement of household goods regulations;

''(E) improve the movement of hazardous materials safely and securely, including activities related to the establishment of uniform forms and application procedures that improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary; or

''(F) demonstrate new technologies to improve commercial motor vehicle safety.

''(2) RECIPIENTS.—The Secretary may allocate amounts to award grants to State agencies, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations in accordance with the program goals specified in paragraph (1).

''(3) FEDERAL SHARE.—The Secretary shall reimburse a grantee at least 80 percent of the costs incurred in a fiscal year for carrying out the high priority activities or projects.

''(4) ELIGIBLE ACTIVITIES.—An eligible activity will be in accordance with criteria that is—

''(A) developed by the Secretary; and

''(B) posted in the Federal Register in advance of the grant application period.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31102 and inserting the following:

''31102. Compliance, safety, and accountability grants.''.

SEC. 32602. PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.

Section 31106(b) is amended—

(1) by amending paragraph (3)(C) to read as follows—

''(C) establish and implement a process—

''(i) to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order; and

''(ii) to reinstate the vehicle registration or return the registration plates of the commercial motor vehicle, subject to sanctions under clause (i), if the Secretary permits such carrier to resume operations after the date of issuance of such order.''; and

(2) by striking paragraph (4).

SEC. 32603. COMMERCIAL MOTOR VEHICLE DEFINED.

Section 31101(1) is amended to read as follows:

''(1) 'commercial motor vehicle' means (except under section 31106) a self-propelled or towed vehicle used on the highways in commerce to transport passengers or property, if the vehicle—

''(A) has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater;

''(B) is designed or used to transport more than 8 passengers, including the driver, for compensation;

''(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

''(D) is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.''.

SEC. 32604. DRIVER SAFETY FITNESS RATINGS.

Section 31144, as amended by section 32204 of this Act, is amended by adding at the end the following:

''(i) COMMERCIAL MOTOR VEHICLE DRIVERS.—The Secretary may maintain by regulation a procedure for determining the safety fitness of a commercial motor vehicle driver and for prohibiting the driver from operating in interstate commerce. The procedure and prohibition shall include the following:

''(1) Specific initial and continuing requirements that a driver must comply with to demonstrate safety fitness.

''(2) The methodology and continually updated safety performance data that the Secretary will use to determine whether a driver is fit, including inspection results, serious traffic offenses, and crash involvement data.

''(3) Specific time frames within which the Secretary will determine whether a driver is fit.

''(4) A prohibition period or periods, not to exceed 1 year, that a driver that the Secretary determines is not fit will be prohibited from operating a commercial motor vehicle in interstate commerce. The period or periods shall begin on the 46th day after the date of the fitness determination and continue until the Secretary determines the driver is fit or until the prohibition period expires.

''(5) A review by the Secretary, not later than 30 days after an unfit driver requests a review, of the driver's compliance with the requirements the driver failed to comply with and that resulted in the Secretary determining that the driver was not fit. The burden of proof shall be on the driver to demonstrate fitness.

''(6) The eligibility criteria for reinstatement, including the remedial measures the unfit driver must take for reinstatement.''.

SEC. 32605. UNIFORM ELECTRONIC CLEARANCE FOR COMMERCIAL MOTOR VEHICLE INSPECTIONS.

(a) IN GENERAL.—Chapter 311 is amended by adding after section 31109 the following:

''§ 31110. Withholding amounts for State noncompliance

''(a) FIRST FISCAL YEAR.—Subject to criteria established by the Secretary of Transportation, the Secretary may withhold up to 50 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the first fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

''(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 75 percent of the amount a State is otherwise eligible to receive under section 31102(b) on the first day of the fiscal year after the second fiscal year following the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 in which the State uses for at least 180 days an electronic commercial motor vehicle inspection selection system that does not employ a selection methodology approved by the Secretary.

''(c) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld under subsection (a) or subsection (b) available to the State if the Secretary determines that the State has substantially complied with the requirement described under subsection (a) or subsection (b) not later than 180 days after the beginning of the fiscal year in which amounts were withheld.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by inserting after the item relating to section 31109 the following:

''31110. Withholding amounts for State noncompliance.''.

SEC. 32606. AUTHORIZATION OF APPROPRIATIONS.

Section 31104 is amended to read as follows:

''§ 31104. Availability of amounts

''(a) IN GENERAL.—There are authorized to be appropriated from Highway Trust Fund (other than the Mass Transit Account) for Federal Motor Carrier Safety Administration programs the following:

''(1) COMPLIANCE, SAFETY, AND ACCOUNTABILITY GRANTS UNDER SECTION 31102.—

''(A) $249,717,000 for fiscal year 2012, provided that the Secretary shall set aside not less than $168,388,000 to carry out the motor carrier safety assistance program under section 31102(b); and

''(B) $253,814,000 for fiscal year 2013, provided that the Secretary shall set aside not less than $171,813,000 to carry out the motor carrier safety assistance program under section 31102(b).

''(2) DATA AND TECHNOLOGY GRANTS UNDER SECTION 31109.—

''(A) $30,000,000 for fiscal year 2012; and

''(B) $30,000,000 for fiscal year 2013.

''(3) DRIVER SAFETY GRANTS UNDER SECTION 31313.—

''(A) $31,000,000 for fiscal year 2012; and

''(B) $31,000,000 for fiscal year 2013.

''(4) CRITERIA.—The Secretary shall develop criteria to allocate the remaining funds under paragraphs (1), (2), and (3) for fiscal year 2013 and for each fiscal year thereafter not later than April 1 of the prior fiscal year.

''(b) AVAILABILITY AND REALLOCATION OF AMOUNTS.—

''(1) ALLOCATIONS AND REALLOCATIONS.—Amounts made available under subsection (a)(1) remain available until expended. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are released to the Secretary for reallocation.

''(2) REDISTRIBUTION OF AMOUNTS.—The Secretary may, after August 1 of each fiscal year, upon a determination that a State does not qualify for funding under section 31102(b) or that the State will not expend all of its existing funding, reallocate the State's funding. In revising the allocation and redistributing the amounts, the Secretary shall give preference to those States that require additional funding to meet program goals under section 31102(b).

''(3) PERIOD OF AVAILABILITY FOR DATA AND TECHNOLOGY GRANTS.—Amounts made available under subsection (a)(2) remain available for obligation for the fiscal year and the next 2 years in which they are appropriated. Allocations remain available for expenditure in the State for 5 fiscal years after they were obligated. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

''(4) PERIOD OF AVAILABILITY FOR DRIVER SAFETY GRANTS.—Amounts made available under subsection (a)(3) of this section remain available for obligation for the fiscal year and the next fiscal year in which they are appropriated. Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the following 2 fiscal years. Amounts not expended by a State during those 3 fiscal years are released to the Secretary for reallocation.

''(5) REALLOCATION.—The Secretary, upon a request by a State, may reallocate grant funds previously awarded to the State under a grant program authorized by section 31102, 31109, or 31313 to another grant program authorized by those sections upon a showing by the State that it is unable to expend the funds within the 12 months prior to their expiration provided that the State agrees to expend the funds within the remaining period of expenditure.

''(c) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant under sections 31102, 31109, and 31313 is a contractual obligation of the Government for payment of the Government's share of costs incurred in developing and implementing programs to improve commercial motor vehicle safety and enforce commercial driver's license regulations, standards, and orders.

''(d) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—On October 1 of each fiscal year or as soon after that as practicable, the Secretary may deduct, from amounts made available under—

''(A) subsection (a)(1) for that fiscal year, not more than 1.5 percent of those amounts for administrative expenses incurred in carrying out section 31102 in that fiscal year;

''(B) subsection (a)(2) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31109 in that fiscal year; and

''(C) subsection (a)(3) for that fiscal year, not more than 1.4 percent of those amounts for administrative expenses incurred in carrying out section 31313 in that fiscal year.

''(2) TRAINING.—The Secretary may use at least 50 percent of the amounts deducted from the amounts made available under sections (a)(1) and (a)(3) to train non-Government employees and to develop related training materials to carry out sections 31102, 31311, and 31313 of this title.

''(3) CONTRACTS.—The Secretary may use amounts deducted under paragraph (1) to enter into contracts and cooperative agreements with States, local governments, associations, institutions, corporations, and other persons, if the Secretary determines the contracts and cooperative agreements are cost-effective, benefit multiple jurisdictions of the United States, and enhance safety programs and related enforcement activities.

''(e) ALLOCATION CRITERIA AND ELIGIBILITY.—

''(1) On October 1 of each fiscal year or as soon as practicable after that date after making the deduction under subsection (d)(1)(A), the Secretary shall allocate amounts made available to carry out section 31102(b) for such fiscal year among the States with plans approved under that section. Allocation shall be made under the criteria prescribed by the Secretary.

''(2) On October 1 of each fiscal year or as soon as practicable after that date and after making the deduction under subsection (d)(1)(B) or (d)(1)(C), the Secretary shall allocate amounts made available to carry out sections 31109(a) and 31313(b)(1).

''(f) INTRASTATE COMPATIBILITY.—The Secretary shall prescribe regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety laws and regulations with Government motor carrier safety regulations to be enforced under section 31102(b). To the extent practicable, the guidelines and standards shall allow for maximum flexibility while ensuring a degree of uniformity that will not diminish transportation safety. In reviewing State plans and allocating amounts or making grants under section 153 of title 23, United States Code, the Secretary shall ensure that the guidelines and standards are applied uniformly.

''(g) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—

''(1) IN GENERAL.—Subject to criteria established by the Secretary, the Secretary may withhold up to 100 percent of the amounts a State is otherwise eligible to receive under section 31102(b) on October 1 of each fiscal year beginning after the date of enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012 and continuing for the period that the State does not comply substantially with a requirement under section 31109(b).

''(2) SUBSEQUENT AVAILABILITY OF WITHHELD FUNDS.—The Secretary may make the amounts withheld in accordance with paragraph (1) available to a State if the Secretary determines that the State has substantially complied with a requirement under section 31109(b) not later than 180 days after the beginning of the fiscal year in which the amounts are withheld.

''(h) ADMINISTRATIVE EXPENSES.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to pay administrative expenses of the Federal Motor Carrier Safety Administration—

''(A) $250,819,000 for fiscal year 2012; and

''(B) $248,523,000 for fiscal year 2013.

''(2) USE OF FUNDS.—The funds authorized by this subsection shall be used for personnel costs, administrative infrastructure, rent, information technology, programs for research and technology, information management, regulatory development, the administration of the performance and registration information system management, outreach and education, other operating expenses, and such other expenses as may from time to time be necessary to implement statutory mandates of the Administration not funded from other sources.

''(i) AVAILABILITY OF FUNDS.—

''(1) PERIOD OF AVAILABILITY.—The amounts made available under this section shall remain available until expended.

''(2) INITIAL DATE OF AVAILABILITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) for this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.''.

SEC. 32607. HIGH RISK CARRIER REVIEWS.

(a) HIGH RISK CARRIER REVIEWS.—Section 31104(h), as amended by section 32606 of this Act, is amended by adding at the end of paragraph (2) the following:

''From the funds authorized by this subsection, the Secretary shall ensure that a review is completed on each motor carrier that demonstrates through performance data that it poses the highest safety risk. At a minimum, a review shall be conducted whenever a motor carrier is among the highest risk carriers for 2 consecutive months.''.

(b) CONFORMING AMENDMENT.—Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31144 note) is repealed.

SEC. 32608. DATA AND TECHNOLOGY GRANTS.

(a) IN GENERAL.—Section 31109 is amended to read as follows:

''§ 31109. Data and technology grants

''(a) GENERAL AUTHORITY.—The Secretary of Transportation shall establish and administer a data and technology grant program to assist the States with the implementation and maintenance of data systems. The Secretary shall allocate the funds in accordance with section 31104.

''(b) PERFORMANCE GOALS.—The Secretary may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b) to develop, implement, and maintain commercial vehicle information systems and networks, and other innovative technologies that the Secretary determines improve commercial motor vehicle safety.

''(c) ELIGIBILITY.—To be eligible for a grant to implement the requirements of section 31106(b), the State shall design a program that—

''(1) links Federal motor carrier safety information systems with the State's motor carrier information systems;

''(2) determines the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

''(3) denies, suspends, or revokes the commercial motor vehicle registrations of a motor carrier or registrant that was issued an operations out-of-service order by the Secretary.

''(d) REQUIRED PARTICIPATION.—The Secretary shall require States that participate in the program under section 31106 to—

''(1) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under section 31106(b);

''(2) possess or seek the authority to possess for a time period not longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and

''(3) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(j)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out of service order.

''(e) FEDERAL SHARE.—The total Federal share of the cost of a project payable from all eligible Federal sources shall be at least 80 percent.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 311 is amended by striking the item relating to section 31109 and inserting the following:

''31109. Data and technology grants.''.

SEC. 32609. DRIVER SAFETY GRANTS.

(a) DRIVER FOCUSED GRANT PROGRAM.—Section 31313 is amended to read as follows:

''§ 31313. Driver safety grants

''(a) GENERAL AUTHORITY.—The Secretary shall make and administer a driver focused grant program to assist the States, local governments, entities, and other persons with commercial driver's license systems, programs, training, fraud detection, reporting of violations and other programs required to improve the safety of drivers as the Federal Motor Carrier Safety Administration deems critical. The Secretary shall allocate the funds for the program in accordance with section 31104.

''(b) COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENT GRANTS.—

''(1) PROGRAM GOAL.—The Secretary of Transportation may make a grant to a State in a fiscal year—

''(A) to comply with the requirements of section 31311;

''(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of this section and section 31311, to improve its implementation of its commercial driver's license program;

''(C) for research, development demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances;

''(D) for commercial driver's license program coordinators;

''(E) to implement or maintain a system to notify an employer of an operator of a commercial motor vehicle of the suspension or revocation of the operator's commercial driver's license consistent with the standards developed under section 32304(b) of the Commercial Motor Vehicle Safety Enhancement Act of 2012; or

''(F) to train operators of commercial motor vehicles, as defined under section 31301, and to train operators and future operators in the safe use of such vehicles. Funding priority for this discretionary grant program shall be to regional or multi-state educational or nonprofit associations serving economically distressed regions of the United States.

''(2) PRIORITY.—The Secretary shall give priority, in making grants under paragraph (1)(B), to a State that will use the grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1748), including the amendments made by the Commercial Motor Vehicle Safety Enhancement Act of 2012.

''(3) RECIPIENTS.—The Secretary may allocate grants to State agencies, local governments, and other persons for carrying out activities and projects that improve commercial driver's license safety and compliance with commercial driver's license and commercial motor vehicle safety regulations in accordance with the program goals under paragraph (1) and that train operators on commercial motor vehicles. The Secretary may make a grant to a State to comply with section 31311 for commercial driver's license program coordinators and for notification systems.

''(4) FEDERAL SHARE.—The Federal share of a grant made under this program shall be at least 80 percent, except that the Federal share of grants for commercial driver license program coordinators and training commercial motor vehicle operators shall be 100 percent.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 313 is amended by striking the item relating to section 31313 and inserting the following:

''31313. Driver safety grants.''.

SEC. 32610. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.

Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(1) established time frames and milestones for resuming the Commercial Vehicle Information Systems and Networks Program; and

(2) a strategic workforce plan for its grants management office to ensure that it has determined the skills and competencies that are critical to achieving its mission goals.

Subtitle G—Motorcoach Enhanced Safety Act of 2012

SEC. 32701. SHORT TITLE.

This subtitle may be cited as the ''Motorcoach Enhanced Safety Act of 2012''.

SEC. 32702. DEFINITIONS.

In this subtitle:

(1) ADVANCED GLAZING.—The term ''advanced glazing'' means glazing installed in a portal on the side or the roof of a motorcoach that is designed to be highly resistant to partial or complete occupant ejection in all types of motor vehicle crashes.

(2) BUS.—The term ''bus'' has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(3) COMMERCIAL MOTOR VEHICLE.—Except as otherwise specified, the term ''commercial motor vehicle'' has the meaning given the term in section 31132(1) of title 49, United States Code.

(4) DIRECT TIRE PRESSURE MONITORING SYSTEM.—The term ''direct tire pressure monitoring system'' means a tire pressure monitoring system that is capable of directly detecting when the air pressure level in any tire is significantly under-inflated and providing the driver a low tire pressure warning as to which specific tire is significantly under-inflated.

(5) ELECTRONIC ON-BOARD RECORDER.—The term ''electronic on-board recorder'' means an electronic device that acquires and stores data showing the record of duty status of the vehicle operator and performs the functions required of an automatic on-board recording device in section 395.15(b) of title 49, Code of Federal Regulations.

(6) EVENT DATA RECORDER.—The term ''event data recorder'' has the meaning given that term in section 563.5 of title 49, Code of Federal Regulations.

(7) MOTOR CARRIER.—The term ''motor carrier'' means—

(A) a motor carrier (as defined in section 13102(14) of title 49, United States Code); or

(B) a motor private carrier (as defined in section 13102(15) of that title).

(8) MOTORCOACH.—The term ''motorcoach'' has the meaning given the term ''over-the-road bus'' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include—

(A) a bus used in public transportation provided by, or on behalf of, a public transportation agency; or

(B) a school bus, including a multifunction school activity bus.

(9) MOTORCOACH SERVICES.—The term ''motorcoach services'' means passenger transportation by motorcoach for compensation.

(10) MULTIFUNCTION SCHOOL ACTIVITY BUS.—The term ''multifunction school activity bus'' has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).

(11) PORTAL.—The term ''portal'' means any opening on the front, side, rear, or roof of a motorcoach that could, in the event of a crash involving the motorcoach, permit the partial or complete ejection of any occupant from the motorcoach, including a young child.

(12) PROVIDER OF MOTORCOACH SERVICES.—The term ''provider of motorcoach services'' means a motor carrier that provides passenger transportation services with a motorcoach, including per-trip compensation and contracted or chartered compensation.

(13) PUBLIC TRANSPORTATION.—The term ''public transportation'' has the meaning given the term in section 5302 of title 49, United States Code.

(14) SAFETY BELT.—The term ''safety belt'' has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.

(15) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SEC. 32703. REGULATIONS FOR IMPROVED OCCUPANT PROTECTION, PASSENGER EVACUATION, AND CRASH AVOIDANCE.

(a) REGULATIONS REQUIRED WITHIN 1 YEAR.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position.

(b) REGULATIONS REQUIRED WITHIN 2 YEARS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial motor vehicle regulations:

(1) ROOF STRENGTH AND CRUSH RESISTANCE.—The Secretary shall establish improved roof and roof support standards for motorcoaches that substantially improve the resistance of motorcoach roofs to deformation and intrusion to prevent serious occupant injury in rollover crashes involving motorcoaches.

(2) ANTI-EJECTION SAFETY COUNTERMEASURES.—The Secretary shall require advanced glazing to be installed in each motorcoach portal and shall consider other portal improvements to prevent partial and complete ejection of motorcoach passengers, including children. In prescribing such standards, the Secretary shall consider the impact of such standards on the use of motorcoach portals as a means of emergency egress.

(3) ROLLOVER CRASH AVOIDANCE.—The Secretary shall require motorcoaches to be equipped with stability enhancing technology, such as electronic stability control and torque vectoring, to reduce the number and frequency of rollover crashes among motorcoaches.

(c) COMMERCIAL MOTOR VEHICLE TIRE PRESSURE MONITORING SYSTEMS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall prescribe the following commercial vehicle regulation:

(1) IN GENERAL.—The Secretary shall require motorcoaches to be equipped with direct tire pressure monitoring systems that warn the operator of a commercial motor vehicle when any tire exhibits a level of air pressure that is below a specified level of air pressure established by the Secretary.

(2) PERFORMANCE REQUIREMENTS.—The regulation prescribed by the Secretary under this subsection shall include performance requirements to ensure that direct tire pressure monitoring systems are capable of—

(A) providing a warning to the driver when 1 or more tires are underinflated;

(B) activating in a specified time period after the underinflation is detected; and

(C) operating at different vehicle speeds.

(d) APPLICATION OF REGULATIONS.—

(1) NEW MOTORCOACHES.—Any regulation prescribed in accordance with subsection (a), (b), or (c) shall apply to all motorcoaches manufactured more than 2 years after the date on which the regulation is published as a final rule.

(2) RETROFIT REQUIREMENTS FOR EXISTING MOTORCOACHES.—

(A) IN GENERAL.—The Secretary may, by regulation, provide for the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1) based on an assessment of the feasibility, benefits, and costs of retrofitting the older motorcoaches.

(B) ASSESSMENT.—The Secretary shall complete an assessment with respect to safety belt retrofits not later than 1 year after the date of enactment of this Act and with respect to anti-ejection countermeasure retrofits not later than 2 years after the date of enactment of this Act.

(e) FAILURE TO MEET DEADLINE.—If the Secretary determines that a final rule cannot be issued before the deadline established under this section, the Secretary shall—

(1) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that explains why the deadline cannot be met; and

(2) establish a new deadline for the issuance of the final rule.

SEC. 32704. STANDARDS FOR IMPROVED FIRE SAFETY.

(a) EVALUATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall initiate the following rulemaking proceedings:

(1) FLAMMABILITY STANDARD FOR EXTERIOR COMPONENTS.—The Secretary shall establish requirements for fire hardening or fire resistance of motorcoach exterior components to prevent fire and smoke inhalation injuries to occupants.

(2) SMOKE SUPPRESSION.—The Secretary shall update Federal Motor Vehicle Safety Standard Number 302 (49 C.F.R. 571.302; relating to flammability of interior materials) to improve the resistance of motorcoach interiors and components to burning and permit sufficient time for the safe evacuation of passengers from motorcoaches.

(3) PREVENTION OF, AND RESISTANCE TO, WHEEL WELL FIRES.—The Secretary shall establish requirements—

(A) to prevent and mitigate the propagation of wheel well fires into the passenger compartment; and

(B) to substantially reduce occupant deaths and injuries from such fires.

(4) AUTOMATIC FIRE SUPPRESSION.—The Secretary shall establish requirements for motorcoaches to be equipped with highly effective fire suppression systems that automatically respond to and suppress all fires in such motorcoaches.

(5) PASSENGER EVACUATION.—The Secretary shall establish requirements for motorcoaches to be equipped with—

(A) improved emergency exit window, door, roof hatch, and wheelchair lift door designs to expedite access and use by passengers of motorcoaches under all emergency circumstances, including crashes and fires; and

(B) emergency interior lighting systems, including luminescent or retroreflectorized delineation of evacuation paths and exits, which are triggered by a crash or other emergency incident to accomplish more rapid and effective evacuation of passengers.

(6) CAUSATION AND PREVENTION OF MOTORCOACH FIRES.—The Secretary shall examine the principle causes of motorcoach fires and vehicle design changes intended to reduce the number of motorcoach fires resulting from those principle causes.

(b) DEADLINE.—Not later than 42 months after the date of enactment of this Act, the Secretary shall—

(1) issue final rules in accordance with subsection (a); or

(2) if the Secretary determines that any standard is not warranted based on the requirements and considerations set forth in subsection (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

(c) TIRE PERFORMANCE STANDARD.—Not later than 3 years after the date of enactment of this Act, the Secretary shall—

(1) issue a final rule upgrading performance standards for tires used on motorcoaches, including an enhanced endurance test and a new high-speed performance test; or

(2) if the Secretary determines that a standard is not warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code, submit a report that describes the reasons for not prescribing such a standard to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Energy and Commerce of the House of Representatives.

SEC. 32705. OCCUPANT PROTECTION, COLLISION AVOIDANCE, FIRE CAUSATION, AND FIRE EXTINGUISHER RESEARCH AND TESTING.

(a) SAFETY RESEARCH INITIATIVES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete the following research and testing:

(1) IMPROVED FIRE EXTINGUISHERS.—The Secretary shall research and test the need to install improved fire extinguishers or other readily available firefighting equipment in motorcoaches to effectively extinguish fires in motorcoaches and prevent passenger deaths and injuries.

(2) INTERIOR IMPACT PROTECTION.—The Secretary shall research and test enhanced occupant impact protection standards for motorcoach interiors to reduce substantially serious injuries for all passengers of motorcoaches.

(3) COMPARTMENTALIZATION SAFETY COUNTERMEASURES.—The Secretary shall require enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs, to substantially reduce the risk of passengers being thrown from their seats and colliding with other passengers, interior surfaces, and components in the event of a crash involving a motorcoach.

(4) COLLISION AVOIDANCE SYSTEMS.—The Secretary shall research and test forward and lateral crash warning systems applications for motorcoaches.

(b) RULEMAKING.—Not later than 2 years after the completion of each research and testing initiative required under subsection (a), the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards are warranted based on the requirements and considerations set forth in subsections (a) and (b) of section 30111 of title 49, United States Code.

SEC. 32706. MOTORCOACH REGISTRATION.

(a) REGISTRATION REQUIREMENTS.—Section 13902(b) is amended—

(1) by redesignating paragraphs (1) through (8) as paragraphs (4) through (11), respectively; and

(2) by inserting before paragraph (4), as redesignated, the following:

''(1) ADDITIONAL REGISTRATION REQUIREMENTS FOR PROVIDERS OR MOTORCOACH SERVICES.—In addition to meeting the requirements under subsection (a)(1), the Secretary may not register a person to provide motorcoach services until after the person—

''(A) undergoes a preauthorization safety audit, including verification, in a manner sufficient to demonstrate the ability to comply with Federal rules and regulations, of—

''(i) a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations;

''(ii) the carrier's system of compliance with hours-of-service rules, including hours-of-service records;

''(iii) the ability to obtain required insurance;

''(iv) driver qualifications, including the validity of the commercial driver's license of each driver who will be operating under such authority;

''(v) disclosure of common ownership, common control, common management, common familial relationship, or other corporate relationship with another motor carrier or applicant for motor carrier authority during the past 3 years;

''(vi) records of the State inspections, or of a Level I or V Commercial Vehicle Safety Alliance Inspection, for all vehicles that will be operated by the carrier;

''(vii) safety management programs, including vehicle maintenance and repair programs; and

''(viii) the ability to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and the Over-the-Road Bus Transportation Accessibility Act of 2007 (122 Stat. 2915);

''(B) has been interviewed to review safety management controls and the carrier's written safety oversight policies and practices; and

''(C) through the successful completion of a written examination developed by the Secretary, has demonstrated proficiency to comply with and carry out the requirements and regulations described in subsection (a)(1).

''(2) PRE-AUTHORIZATION SAFETY AUDIT.—The pre-authorization safety audit required under paragraph (1)(A) shall be completed on-site not later than 90 days following the submission of an application for operating authority.

''(3) FEE.—The Secretary may establish, under section 9701 of title 31, a fee of not more than $1,200 for new registrants that as nearly as possible covers the costs of performing a preauthorization safety audit. Amounts collected under this subsection shall be deposited in the Highway Trust Fund (other than the Mass Transit Account).''.

(b) SAFETY REVIEWS OF NEW OPERATORS.—Section 31144(g)(1) is amended by inserting ''transporting property'' after ''each operator''.

(c) CONFORMING AMENDMENT.—Section 24305(a)(3)(A)(i) is amended by striking ''section 13902(b)(8)(A)'' and inserting ''section 13902(b)(11)(A)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

SEC. 32707. IMPROVED OVERSIGHT OF MOTORCOACH SERVICE PROVIDERS.

(a) SAFETY REVIEWS.—Section 31144, as amended by sections 32204 and 32604 of this Act, is amended by adding at the end the following:

''(j) PERIODIC SAFETY REVIEWS OF PROVIDERS OF MOTORCOACH SERVICES.—

''(1) SAFETY REVIEW.—

''(A) IN GENERAL.—The Secretary shall—

''(i) determine the safety fitness of all providers of motorcoach services registered with the Federal Motor Carrier Safety Administration through a simple and understandable rating system that allows motorcoach passengers to compare the safety performance of motorcoach operators; and

''(ii) assign a safety fitness rating to each such provider.

''(B) APPLICABILITY.—Subparagraph (A) shall apply—

''(i) to any provider of motorcoach services registered with the Administration after the date of enactment of the Motorcoach Enhanced Safety Act of 2012 beginning not later than 2 years after the date of such registration; and

''(ii) to any provider of motorcoach services registered with the Administration on or before the date of enactment of that Act beginning not later than 3 years after the date of enactment of that Act.

''(2) PERIODIC REVIEW.—The Secretary shall establish, by regulation, a process for monitoring the safety performance of each provider of motorcoach services on a regular basis following the assignment of a safety fitness rating, including progressive intervention to correct unsafe practices.

''(3) ENFORCEMENT STRIKE FORCES.—In addition to the enhanced monitoring and enforcement actions required under paragraph (2), the Secretary may organize special enforcement strike forces targeting providers of motorcoach services.

''(4) PERIODIC UPDATE OF SAFETY FITNESS RATING.—In conducting the safety reviews required under this subsection, the Secretary shall—

''(A) reassess the safety fitness rating of each provider not less frequently than once every 3 years; and

''(B) annually assess the safety fitness of certain providers of motorcoach services that serve primarily urban areas with high passenger loads.

''(5) MOTORCOACH SERVICES DEFINED.—In this subsection, the term 'provider of motorcoach services' has the meaning given such term in section 32702 of the Motorcoach Enhanced Safety Act of 2012.''.

(b) DISCLOSURE OF SAFETY PERFORMANCE RATINGS OF MOTORCOACH SERVICES AND OPERATIONS.—

(1) IN GENERAL.—Subchapter I of chapter 141 of title 49, United States Code, is amended by adding at the end the following:

''§ 14105. Safety performance ratings of motorcoach services and operations

''(a) DEFINITIONS.—In this section:

''(1) MOTORCOACH.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'motorcoach' has the meaning given to the term 'over-the-road bus' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

''(B) EXCLUSIONS.—The term 'motorcoach' does not include—

''(i) a bus used in public transportation that is provided by a State or local government; or

''(ii) a school bus (as defined in section 30125(a)(1)), including a multifunction school activity bus.

''(2) MOTORCOACH SERVICES AND OPERATIONS.—The term 'motorcoach services and operations' means passenger transportation by a motorcoach for compensation.

''(b) DISPLAY OF MOTOR CARRIER IDENTIFICATION.—

''(1) REQUIREMENT.—Beginning on the date that is 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, no person may sell or offer to sell interstate motorcoach transportation services, or provide broker services related to such transportation, unless the person, at the point of sale or provision of broker services, conspicuously displays—

''(A) the legal name and USDOT number of the single motor carrier responsible for the transportation and for compliance with the Federal Motor Carrier Safety Regulations under parts 350 through 399 of title 49, Code of Federal Regulations; and

''(B) the URL for the Federal Motor Carrier Safety Administration's public website where the Administration has posted motor carrier and commercial motor vehicle driver scores in the Safety Measurement System.

''(2) CIVIL PENALTIES.—A person who violates paragraph (1) shall be liable for civil

penalties to the same extent as a person who does not prepare a record in the form and manner prescribed under section 14901(a).

''(c) RULEMAKING.—

''(1) IN GENERAL.—Not later than 2 years after the date on which the safety fitness determination rule is implemented, the Secretary shall require, by regulation—

''(A) each motor carrier that owns or leases 1 or more motorcoaches that transport passengers subject to the Secretary's jurisdiction under section 13501 to prominently display the safety fitness rating assigned under section 31144(j)(1)(A)(ii)—

''(i) in each terminal of departure;

''(ii) in the motorcoach and visible from a position exterior to the vehicle at the point of departure, if the motorcoach does not depart from a terminal; and

''(iii) at all points of sale for such motorcoach services and operations; and

''(B) any person who sells tickets for motorcoach services and operations to display the rating system described in subparagraph (A) at all points of sale for such motorcoach services and operations.

''(2) ITEMS INCLUDED IN THE RULEMAKING.—In promulgating safety performance ratings for motorcoaches pursuant to the rulemaking required under paragraph (1), the Secretary shall consider—

''(A) the need and extent to which safety performance ratings should be made available in languages other than English; and

''(B) penalties authorized under section 521.

''(3) INSUFFICIENT INSPECTIONS.—Any motor carrier for which insufficient safety data is available shall display a label that states that the carrier has sufficiently passed the preauthorization safety audit required under section 13902(b)(1)(A).

''(d) EFFECT ON STATE AND LOCAL LAW.—Nothing in this section may be construed to preempt a State, or a political subdivision of a State, from enforcing any requirements concerning the manner and content of consumer information provided by motor carriers that are not subject to the Secretary's jurisdiction under section 13501.''.

(2) CLERICAL AMENDMENT.—The analysis of chapter 141 of title 49, United States Code, is amended by inserting after the item relating to section 14104 the following:

''Sec. 14105. Safety performance ratings of motorcoach services and operations.''.

SEC. 32708. REPORT ON FEASIBILITY, BENEFITS, AND COSTS OF ESTABLISHING A SYSTEM OF CERTIFICATION OF TRAINING PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that describes the feasibility, benefits, and costs of establishing a system of certification of public and private schools and of motor carriers and motorcoach operators that provide motorcoach driver training.

SEC. 32709. REPORT ON DRIVER'S LICENSE REQUIREMENTS FOR 9- TO 15-PASSENGER VANS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that examines requiring all or certain classes of drivers operating a vehicle, which is designed or used to transport not fewer than 9 and not more than 15 passengers (including a driver) in interstate commerce, to have a commercial driver's license passenger-carrying endorsement and be tested in accordance with a drug and alcohol testing program under part 40 of title 49, Code of Federal Regulations.

(b) CONSIDERATIONS.—In developing the report under subsection (a), the Secretary shall consider—

(1) the safety benefits of the requirement described in subsection (a);

(2) the scope of the population that would be impacted by such requirement;

(3) the cost to the Federal Government and State governments to meet such requirement; and

(4) the impact on safety benefits and cost from limiting the application of such requirement to certain drivers of such vehicles, such as drivers who are compensated for driving.

SEC. 32710. EVENT DATA RECORDERS.

(a) EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Secretary, after considering the performance requirements for event data recorders for passenger vehicles under part 563 of title 49, Code of Federal Regulations, shall complete an evaluation of event data recorders, including requirements regarding specific types of vehicle operations, events and incidents, and systems information to be recorded, for event data recorders to be used on motorcoaches used by motor carriers in interstate commerce.

(b) STANDARDS AND REGULATIONS.—Not later than 2 years after completing the evaluation required under subsection (a), the Secretary shall issue standards and regulations based on the results of that evaluation.

SEC. 32711. SAFETY INSPECTION PROGRAM FOR COMMERCIAL MOTOR VEHICLES OF PASSENGERS.

Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to consider requiring States to conduct annual inspections of commercial motor vehicles designed or used to transport passengers, including an assessment of—

(1) the risks associated with improperly maintained or inspected commercial motor vehicles designed or used to transport passengers;

(2) the effectiveness of existing Federal standards for the inspection of such vehicles in—

(A) mitigating the risks described in paragraph (1); and

(B) ensuring the safe and proper operation condition of such vehicles; and

(3) the costs and benefits of a mandatory State inspection program.

SEC. 32712. DISTRACTED DRIVING.

(a) IN GENERAL.—Chapter 311, as amended by sections 32113, 32508, and 32512 of this Act, is amended by adding after section 31154 the following:

''§ 31155. Regulation of the use of distracting devices in motorcoaches

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of the Motorcoach Enhanced Safety Act of 2012, the Secretary of Transportation shall prescribe regulations on the use of electronic or wireless devices, including cell phones and other distracting devices, by an individual employed as the operator of a motorcoach (as defined in section 32702 of that Act).

''(b) BASIS FOR REGULATIONS.—The Secretary shall base the regulations prescribed under subsection (a) on accident data analysis, the results of ongoing research, and other information, as appropriate.

''(c) PROHIBITED USE.—Except as provided under subsection (d), the Secretary shall prohibit the use of the devices described in subsection (a) in circumstances in which the Secretary determines that their use interferes with a driver's safe operation of a motorcoach.

''(d) PERMITTED USE.—The Secretary may permit the use of a device that is otherwise prohibited under subsection (c) if the Secretary determines that such use is necessary for the safety of the driver or the public in emergency circumstances.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 311 is amended by inserting after the item relating to section 31154 the following:

''31155. Regulation of the use of distracting devices in motorcoaches.''.

SEC. 32713. REGULATIONS.

Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2012 shall be prescribed or modified in accordance with section 553 of title 5, United States Code.

Subtitle H—Safe Highways and Infrastructure Preservation

SEC. 32801. COMPREHENSIVE TRUCK SIZE AND WEIGHT LIMITS STUDY.

(a) TRUCK SIZE AND WEIGHT LIMITS STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with each relevant State and other applicable Federal agencies, shall commence a comprehensive truck size and weight limits study. The study shall—

(1) provide data on accident frequency and factors related to accident risk of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations and its correlation to truck size and weight limits;

(2) evaluate the impacts to the infrastructure of each route of the National Highway System in each State that allows a vehicle to operate with size and weight limits that are in excess of the Federal law and regulations, including—

(A) an analysis that quantifies the cost and benefits of the impacts in dollars;

(B) an analysis of the percentage of trucks operating in excess of the Federal size and weight limits; and

(C) an analysis that examines the ability of each State to recover the cost for the impacts, or the benefits incurred;

(3) evaluate the impacts and frequency of violations in excess of the Federal size and weight law and regulations to determine the cost of the enforcement of the law and regulations, and the effectiveness of the enforcement methods;

(4) examine the relationship between truck performance and crash involvement and its correlation to Federal size and weight limits, including the impacts on crashes;

(5) assess the impacts that truck size and weight limits in excess of the Federal law and regulations have in the risk of bridge failure contributing to the structural deficiencies of bridges or in the useful life of a bridge, including the impacts resulting from the number of bridge loadings;

(6) analyze the impacts on safety and infrastructure in each State that allows a truck to operate in excess of Federal size and weight limitations in truck-only lanes;

(7) compare and contrast the safety and infrastructure impacts of the Federal limits regarding truck size and weight limits in relation to—

(A) six-axle and other alternative configurations of tractor-trailers; and

(B) safety records of foreign nations with truck size and weight limits and tractor-trailer configurations that differ from the Federal law and regulations; and

(8) estimate—

(A) the extent to which freight would be diverted from other surface transportation modes to principal arterial routes and National Highway System intermodal connectors if each covered truck configuration is

allowed to operate and the effect that any such diversion would have on other modes of transportation;

(B) the effect that any such diversion would have on public safety, infrastructure, cost responsibilities, fuel efficiency, and the environment;

(C) the effect on the transportation network of the United States that allowing each covered truck configuration to operate would have; and

(D) whether allowing each covered truck configuration to operate would result in an increase or decrease in the total number of trucks operating on principal arterial routes and National Highway System intermodal connectors; and

(9) identify all Federal rules and regulations impacted by changes in truck size and weight limits.

(b) REPORT.—Not later than 2 years after the date that the study is commenced under subsection (a), the Secretary shall submit a final report on the study, including all findings and recommendations, to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 32802. COMPILATION OF EXISTING STATE TRUCK SIZE AND WEIGHT LIMIT LAWS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the States, shall begin to compile—

(1) a list for each State, as applicable, that describes each route of the National Highway System that allows a vehicle to operate in excess of the Federal truck size and weight limits that—

(A) was authorized under State law on or before the date of enactment of this Act; and

(B) was in actual and lawful operation on a regular or periodic basis (including seasonal operations) on or before the date of enactment of this Act;

(2) a list for each State, as applicable, that describes—

(A) the size and weight limitations applicable to each segment of the National Highway System in that State as listed under paragraph (1);

(B) each combination that exceeds the Interstate weight limit, but that the Department of Transportation, other Federal agency, or a State agency has determined on or before the date of enactment of this Act, could be or could have been lawfully operated in the State; and

(C) each combination that exceeds the Interstate weight limit, but that the Secretary determines could have been lawfully operated on a non-Interstate segment of the National Highway System in the State on or before the date of enactment of this Act; and

(3) a list of each State law that designates or allows designation of size and weight limitations in excess of Federal law and regulations on routes of the National Highway System, including nondivisible loads.

(b) SPECIFICATIONS.—The Secretary, in consultation with the States, shall specify whether the determinations under paragraphs (1) and (2) of subsection (a) were made by the Department of Transportation, other Federal agency, or a State agency.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a final report of the compilation under subsection (a) to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Subtitle I—Miscellaneous

PART I—MISCELLANEOUS

SEC. 32911. DETENTION TIME STUDY.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary shall task the Motor Carrier Safety Advisory Committee to study the extent to which detention time contributes to drivers violating hours of service requirements and driver fatigue. In conducting this study, the Committee shall—

(1) examine data collected from driver and vehicle inspections;

(2) consult with—

(A) motor carriers and drivers, shippers, and representatives of ports and other facilities where goods are loaded and unloaded;

(B) government officials; and

(C) other parties as appropriate; and

(3) provide recommendations to the Secretary for addressing issues identified in the study.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes recommendations for legislation and for addressing the results of the study.

SEC. 32912. PROHIBITION OF COERCION.

Section 31136(a) is amended by—

(1) striking ''and'' at the end of paragraph (3);

(2) striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) adding after subsection (4) the following:

''(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.''.

SEC. 32913. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.

(a) MEMBERSHIP.—Section 4144(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by inserting ''nonprofit employee labor organizations representing commercial motor vehicle drivers,'' after ''industry,''.

(b) TERMINATION DATE.—Section 4144(d) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (49 U.S.C. 31100 note), is amended by striking ''March 31, 2012'' and inserting ''September 30, 2013''.

SEC. 32914. WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.

(a) WAIVER STANDARDS.—Section 31315(a) is amended—

(1) by inserting ''and'' at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) redesignating paragraph (4) as paragraph (3).

(b) EXEMPTION STANDARDS.—Section 31315(b)(4) is amended—

(1) in subparagraph (A), by inserting ''(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)'' after ''Federal Register'';

(2) by amending subparagraph (B) to read as follows:

''(B) UPON GRANTING A REQUEST.—Upon granting a request and before the effective date of the exemption, the Secretary shall publish in the Federal Register (or, in the case of an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149) the name of the person granted the exemption, the provisions from which the person is exempt, the effective period, and the terms and conditions of the exemption.''; and

(3) in subparagraph (C), by inserting ''(or, in the case of a request for an exemption from the physical qualification standards for commercial motor vehicle drivers, post on a web site established by the Secretary to implement the requirements of section 31149)'' after ''Federal Register''.

(c) PROVIDING NOTICE OF EXEMPTIONS TO STATE PERSONNEL.—Section 31315(b)(7) is amended to read as follows:

''(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before the effective date of an exemption, the Secretary shall notify a State safety compliance and enforcement agency, and require the agency pursuant to section 31102(b)(1)(Y) to notify the State's roadside inspectors, that a person will be operating pursuant to an exemption and the terms and conditions that apply to the exemption.''.

(d) PILOT PROGRAMS.—Section 31315(c)(1) is amended by striking ''in the Federal Register''.

(e) REPORT TO CONGRESS.—Section 31315 is amended by adding after subsection (d) the following:

''(e) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives listing the waivers, exemptions, and pilot programs granted under this section, and any impacts on safety.

''(f) WEB SITE.—The Secretary shall ensure that the Federal Motor Carrier Safety Administration web site includes a link to the web site established by the Secretary to implement the requirements under sections 31149 and 31315. The link shall be in a clear and conspicuous location on the home page of the Federal Motor Carrier Safety Administration web site and be easily accessible to the public.''.

SEC. 32915. REGISTRATION REQUIREMENTS.

(a) REQUIREMENTS FOR REGISTRATION.—Section 13901 is amended to read as follows:

''§ 13901. Requirements for registration

''(a) IN GENERAL.—A person may not provide transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135 or service as a freight forwarder subject to jurisdiction under subchapter III of such chapter, or be a broker for transportation subject to jurisdiction under subchapter I of such chapter unless the person is registered under this chapter to provide such transportation or service.

''(b) REGISTRATION NUMBERS.—

''(1) IN GENERAL.—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for each such authority to provide transportation or service for which the person is registered.

''(2) TRANSPORTATION OR SERVICE TYPE INDICATOR.—A number issued under paragraph (1) shall include an indicator of the type of transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

''(c) SPECIFICATION OF AUTHORITY.—For each agreement to provide transportation or service for which registration is required under this chapter, the registrant shall

specify, in writing, the authority under which the person is providing such transportation or service.''.

(b) AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—Chapter 139 is amended by adding at the end the following:

''§ 13909. Availability of information

''The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including—

''(1) the names and business addresses of the principals of each entity holding such registration; and

''(2) the electronic address of the entity's surety provider for the submission of claims.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 139 is amended by adding at the end the following:

''13909. Availability of information.''.

SEC. 32916. ADDITIONAL MOTOR CARRIER REGISTRATION REQUIREMENTS.

Section 13902, as amended by sections 32101 and 32107(a) of this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ''using self-propelled vehicles the motor carrier owns or leases'' after ''motor carrier''; and

(B) by adding at the end the following:

''(6) SEPARATE REGISTRATION REQUIRED.—A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.''; and

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

''(i) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—A motor carrier registered under this chapter—

''(1) may only provide transportation of property with self-propelled motor vehicles owned or leased by the motor carrier or interchanges under regulations issued by the Secretary if the originating carrier—

''(A) physically transports the cargo at some point; and

''(B) retains liability for the cargo and for payment of interchanged carriers; and

''(2) may not arrange transportation described in paragraph (1) unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as applicable.''.

SEC. 32917. REGISTRATION OF FREIGHT FORWARDERS AND BROKERS.

(a) REGISTRATION OF FREIGHT FORWARDERS.—Section 13903, as amended by section 32107(b) of this Act, is amended—

(1) in subsection (a)—

(A) by striking ''finds that the person is fit'' and inserting the following: ''determines that the person—

''(1) has sufficient experience to qualify the person to act as a freight forwarder; and

''(2) is fit''; and

(B) by striking ''and the Board'';

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(3) by inserting after subsection (a) the following:

''(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the freight forwarder is in compliance with section 13906(c).

''(c) EXPERIENCE OR TRAINING REQUIREMENT.—Each freight forwarder shall employ, as an officer, an individual who—

''(1) has at least 3 years of relevant experience; or

''(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.''; and

(4) by amending subsection (d), as redesignated, to read as follows:

''(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.''.

(b) REGISTRATION OF BROKERS.—Section 13904, as amended by section 32107(c) of this Act, is amended—

(1) in subsection (a), by striking ''finds that the person is fit'' and inserting the following: ''determines that the person—

''(1) has sufficient experience to qualify the person to act as a broker for transportation; and

''(2) is fit'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (g) respectively;

(3) by inserting after subsection (a) the following:

''(b) DURATION.—A registration issued under subsection (a) shall only remain in effect while the broker for transportation is in compliance with section 13906(b).

''(c) EXPERIENCE OR TRAINING REQUIREMENTS.—Each broker shall employ, as an officer, an individual who—

''(1) has at least 3 years of relevant experience; or

''(2) provides the Secretary with satisfactory evidence of the individual's knowledge of related rules, regulations, and industry practices.''; and

(4) by amending subsection (d), as redesignated, to read as follows:

''(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.''.

SEC. 32918. EFFECTIVE PERIODS OF REGISTRATION.

Section 13905(c) is amended to read as follows:

''(c) EFFECTIVE PERIOD.—

''(1) IN GENERAL.—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904—

''(A) shall be effective beginning on the date specified by the Secretary; and

''(B) shall remain in effect for such period as the Secretary determines appropriate by regulation.

''(2) REISSUANCE OF REGISTRATION.—

''(A) REQUIREMENT.—Not later than 4 years after the date of the enactment of the Commercial Motor Vehicle Safety Enhancement Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter.

''(B) EFFECTIVE PERIOD.—Each registration renewal under subparagraph (A)—

''(i) shall expire not later than 5 years after the date of such renewal; and

''(ii) may be further renewed as provided under this chapter.

''(3) REGISTRATION UPDATE.—The Secretary shall require a motor carrier, freight forwarder, or broker to update its registration under this chapter periodically or not later than 30 days after any change in address, other contact information, officers, process agent, or other essential information, as determined by the Secretary and published in the Federal Register.''.

SEC. 32919. FINANCIAL SECURITY OF BROKERS AND FREIGHT FORWARDERS.

(a) IN GENERAL.—Section 13906 is amended by striking subsections (b) and (c) and inserting the following:

''(b) BROKER FINANCIAL SECURITY REQUIREMENTS.—

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

''(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

''(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

''(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

''(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

''(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

''(i) subject to the review by the surety provider, the broker consents to the payment;

''(ii) in any case in which the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines that the claim is valid; or

''(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii), and the claim is reduced to a judgment against the broker.

''(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

''(i) respond to the claim on or before the 30th day following the date on which the notice was received; and

''(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

''(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

''(3) MINIMUM FINANCIAL SECURITY.—Each broker subject to the requirements of this section shall provide financial security of $100,000 for purposes of this subsection, regardless of the number of branch offices or sales agents of the broker.

''(4) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

''(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

''(B) the Secretary shall immediately post such notification on the public Internet Website of the Department of Transportation.

''(5) SUSPENSION.—The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of that person falls below the amount required under this subsection.

''(6) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a broker

registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall—

''(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);

''(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

''(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

''(i) all uncontested claims received during such period; or

''(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

''(7) PENALTIES.—

''(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General of the United States may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

''(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

''(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provider broker financial security for 3 years.

''(8) FINANCIAL SECURITY AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amount of the financial security required under this subsection to determine whether such amounts are sufficient to provide adequate financial security, and shall be authorized to increase those amounts, if necessary, based upon that determination.

''(c) FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.—

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, proof of trust fund, other financial security, or a combination of such instruments, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

''(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.—In implementing the standards established under subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, other financial security, or a combination of such instruments, that meets the requirements of this subsection.

''(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

''(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may not be accepted by the Secretary unless the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

''(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

''(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

''(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

''(ii) in the case the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

''(iii) the claim—

''(I) is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii); and

''(II) is reduced to a judgment against the freight forwarder.

''(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

''(i) respond to the claim on or before the 30th day following receipt of the notice; and

''(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

''(C) COSTS AND ATTORNEY'S FEES.—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorney's fees.

''(3) FREIGHT FORWARDER INSURANCE.—

''(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards prescribed by the Secretary.

''(B) LIABILITY INSURANCE.—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in subparagraph (C)), resulting from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder while providing transfer, collection, or delivery service under this part.

''(C) CARGO INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary, that will pay an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

''(4) MINIMUM FINANCIAL SECURITY.—Each freight forwarder subject to the requirements of this section shall provide financial security of $100,000, regardless of the number of branch offices or sales agents of the freight forwarder.

''(5) CANCELLATION NOTICE.—If a financial security required under this subsection is canceled—

''(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

''(B) the Secretary shall immediately post such notification on the public Internet web site of the Department of Transportation.

''(6) SUSPENSION.—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter if its available financial security falls below the amount required under this subsection.

''(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall—

''(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

''(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

''(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

''(i) all uncontested claims received during such period; or

''(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

''(8) PENALTIES.—

''(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

''(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

''(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide freight forwarder financial security for 3 years.

''(9) FINANCIAL SECURITY AND INSURANCE AMOUNT ASSESSMENT.—Not less frequently than once every 5 years, the Secretary—

''(A) shall review, with public notice and comment, the amount of the financial security and insurance required under this subsection to determine whether such amounts are sufficient to provide adequate financial security; and

''(B) may increase such amounts, if necessary, based upon the determination under subparagraph (A).''.

(b) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to implement and enforce the requirements under subsections (b) and (c) of section 13906 of title 49, United States Code, as amended by subsection (a).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

SEC. 32920. UNLAWFUL BROKERAGE ACTIVITIES.

(a) IN GENERAL.—Chapter 149 is amended by adding at the end the following:

''§ 14916. Unlawful brokerage activities

''(a) PROHIBITED ACTIVITIES.—Any person that acts as a broker, other than a non-vessel-operating common carrier (as defined in section 40102(16) of title 46) or an ocean freight forwarder providing brokerage as part of an international through movement involving ocean transportation between the United States and a foreign port, is prohibited from providing interstate brokerage services as a broker unless that person—

''(1) is registered under, and in compliance with, section 13903; and

''(2) has satisfied the financial security requirements under section 13904.

''(b) CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.—Any person who knowingly authorizes, consents to, or permits, directly or indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable—

''(1) to the United States Government for a civil penalty in an amount not to exceed $10,000 for each violation; and

''(2) to the injured party for all valid claims incurred without regard to amount.

''(c) LIABLE PARTIES.—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally—

''(1) to any corporate entity or partnership involved; and

''(2) to the individual officers, directors, and principals of such entities.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 149 is amended by adding at the end the following:

''14916. Unlawful brokerage activities.''.

PART II—HOUSEHOLD GOODS TRANSPORTATION

SEC. 32921. ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.

(a) Section 13902(a)(2) is amended—

(1) in subparagraph (B), by striking ''section 13702(c);'' and inserting ''section 13702(c); and'';

(2) by amending subparagraph (C) to read as follows:

''(C) demonstrates, before being registered, through successful completion of a proficiency examination established by the Secretary, knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage.''; and

(3) by striking subparagraph (D).

(b) COMPLIANCE REVIEWS OF NEW HOUSEHOLD GOODS MOTOR CARRIERS.—Section 31144(g), as amended by section 32102 of this Act, is amended by adding at the end the following:

''(6) ADDITIONAL REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—(A) In addition to the requirements of this subsection, the Secretary shall require, by regulation, each registered household goods motor carrier to undergo a consumer protection standards review not later than 18 months after the household goods motor carrier begins operations under such authority.

''(B) ELEMENTS.—In the regulations issued pursuant to subparagraph (A), the Secretary shall establish the elements of the consumer protections standards review, including basic management controls. In establishing the elements, the Secretary shall consider the effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

SEC. 32922. FAILURE TO GIVE UP POSSESSION OF HOUSEHOLD GOODS.

(a) INJUNCTIVE RELIEF.—Section 14704(a)(1) is amended by striking ''and 14103'' and inserting '', 14103, and 14915(c)''.

(b) CIVIL PENALTIES.—Section 14915(a)(1) is amended by adding at the end the following:

''The United States may assign all or a portion of the civil penalty to an aggrieved shipper. The Secretary of Transportation shall establish criteria upon which such assignments shall be made. The Secretary may order, after notice and an opportunity for a proceeding, that a person found holding a household goods shipment hostage return the goods to an aggrieved shipper.''.

SEC. 32923. SETTLEMENT AUTHORITY.

(a) SETTLEMENT OF GENERAL CIVIL PENALTIES.—Section 14901 is amended by adding at the end the following:

''(h) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.''.

(b) SETTLEMENT OF HOUSEHOLD GOODS CIVIL PENALTIES.—Section 14915(a) is amended by adding at the end the following:

''(4) SETTLEMENT AUTHORITY.—Nothing in this section shall be construed as prohibiting the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.''.

SEC. 32924. HOUSEHOLD GOODS TRANSPORTATION ASSISTANCE PROGRAM.

(a) JOINT ASSISTANCE PROGRAM.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement a joint assistance program, through the Federal Motor Carrier Safety Administration—

(1) to educate consumers about the household goods motor carrier industry pursuant to the recommendations of the task force established under section 32925 of this Act;

(2) to improve the Federal Motor Carrier Safety Administration's implementation, monitoring, and coordination of Federal and State household goods enforcement activities;

(3) to assist a consumer with the timely resolution of an interstate household goods hostage situation, as appropriate; and

(4) to conduct other enforcement activities as designated by the Secretary.

(b) JOINT ASSISTANCE PROGRAM PARTNERSHIP.—The Secretary—

(1) may partner with 1 or more household goods motor carrier industry groups to implement the joint assistance program under subsection (a); and

(2) shall ensure that each participating household goods motor carrier industry group—

(A) implements the joint assistance program in the best interest of the consumer;

(B) implements the joint assistance program in the public interest;

(C) accurately represents its financial interests in providing household goods mover services in the normal course of business and in assisting consumers resolving hostage situations;

(D) does not hold itself out or misrepresent itself as an agent of the Federal government;

(E) abides by Federal regulations and guidelines for the provision of assistance and receipt of compensation for household goods mover services; and

(F) accurately represents the Federal and State remedies that are available to consumers for resolving interstate household goods hostage situations.

(c) REPORT.—The Secretary shall submit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives providing a detailed description of the joint assistance program under subsection (a).

(d) PROHIBITION.—The joint assistance program under subsection (a) may not include the provision of funds by the United States to a consumer for lost, stolen, or damaged items.

SEC. 32925. HOUSEHOLD GOODS CONSUMER EDUCATION PROGRAM.

(a) TASK FORCE.—The Secretary of Transportation shall establish a task force to develop recommendations to ensure that a consumer is informed of Federal law concerning the transportation of household goods by a motor carrier, including recommendations—

(1) on how to condense publication ESA 03005 of the Federal Motor Carrier Safety Administration into a format that can be more easily used by a consumer; and

(2) on the use of state-of-the-art education techniques and technologies, including the use of the Internet as an educational tool.

(b) TASK FORCE MEMBERS.—The task force shall be comprised of—

(1) individuals with expertise in consumer affairs;

(2) educators with expertise in how people learn most effectively; and

(3) representatives of the household goods moving industry.

(c) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the task force shall complete its recommendations under subsection (a). Not later than 1 year after the task force completes its recommendations under subsection (a), the Secretary shall issue regulations implementing the recommendations, as appropriate.

(d) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(e) TERMINATION.—The task force shall terminate 2 years after the date of enactment of this Act.

PART III—TECHNICAL AMENDMENTS

SEC. 32931. UPDATE OF OBSOLETE TEXT.

(a) Section 31137(e), as redesignated by section 32301 of this Act, is amended by striking ''Not later than December 1, 1990, the Secretary shall prescribe'' and inserting ''The Secretary shall maintain''.

(b) Section 31151(a) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) IN GENERAL.—The Secretary of Transportation shall maintain a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.''; and

(2) by striking paragraph (4).

(c) Section 31307(b) is amended by striking ''Not later than December 18, 1994, the Secretary shall prescribe'' and inserting ''The Secretary shall maintain''.

(d) Section 31310(g)(1) is amended by striking ''Not later than 1 year after the date of enactment of this Act, the'' and inserting ''The''.

(e) Section 4123(f) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1736), is amended by striking ''Not later than 1 year after the date of enactment of this Act, the'' and inserting ''The''.

SEC. 32932. CORRECTION OF INTERSTATE COMMERCE COMMISSION REFERENCES.

(a) SAFETY INFORMATION AND INTERVENTION IN INTERSTATE COMMERCE COMMISSION PROCEEDINGS.—Chapter 3 is amended—

(1) by repealing section 307;

(2) in the analysis, by striking the item relating to section 307;

(3) in section 333(d)(1)(C), by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(4) in section 333(e)—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(B) by striking ''Commission'' and inserting ''Board''.

(b) FILING AND PROCEDURE FOR APPLICATION TO ABANDON OR DISCONTINUE.—Section 10903(b)(2) is amended by striking ''24706(c) of this title'' and inserting ''24706(c) of this title before May 31, 1998''.

(c) TECHNICAL AMENDMENTS TO PART C OF SUBTITLE V.—

(1) Section 24307(b)(3) is amended by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''.

(2) Section 24311 is amended—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board'';

(B) by striking ''Commission'' each place it appears and inserting ''Board''; and

(C) by striking ''Commission's'' and inserting ''Board's''.

(3) Section 24902 is amended—

(A) by striking ''Interstate Commerce Commission'' each place it appears and inserting ''Surface Transportation Board''; and

(B) by striking ''Commission'' each place it appears and inserting ''Board''.

(4) Section 24904 is amended—

(A) by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board''; and

(B) by striking ''Commission'' each place it appears and inserting ''Board''.

SEC. 32933. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 13905(f)(1)(A) is amended by striking ''section 13904(c)'' and inserting ''section 13904(e)'';

(b) Section 14504a(c)(1) is amended—

(1) in subparagraph (C), by striking ''sections'' and inserting ''section''; and

(2) in subparagraph (D)(ii)(II) by striking the period at the end and inserting ''; and''.

(c) Section 31103(a) is amended by striking ''section 31102(b)(1)(E)'' and inserting ''section 31102(b)(2)(E)''.

(d) Section 31103(b) is amended by striking ''authorized by section 31104(f)(2)''.

(e) Section 31309(b)(2) is amended by striking ''31308(2)'' and inserting ''31308(3)''.

TITLE III—SURFACE TRANSPORTATION AND FREIGHT POLICY ACT OF 2012

SEC. 33001. SHORT TITLE.

This title may be cited as the ''Surface Transportation and Freight Policy Act of 2012''.

SEC. 33002. ESTABLISHMENT OF A NATIONAL SURFACE TRANSPORTATION AND FREIGHT POLICY.

(a) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 32932 of the Commercial Motor Vehicle Safety Enhancement Act of 2012, is amended—

(1) by redesignating sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating sections 303 and 303a as sections 305 and 306, respectively; and

(4) by inserting after section 302 the following:

''§ 303. National surface transportation policy

''(a) POLICY.—It is the policy of the United States to develop a comprehensive national surface transportation system that advances the national interest and defense, interstate and foreign commerce, the efficient and safe interstate mobility of people and goods, and the protection of the environment. The system shall be built, maintained, managed, and operated as a partnership between the Federal, State, and local governments and the private sector and shall be coordinated with the overall transportation system of the United States, including the Nation's air, rail, pipeline, and water transportation systems. The Secretary of Transportation shall be responsible for carrying out this policy.

''(b) OBJECTIVES.—The objectives of the policy shall be to facilitate and advance—

''(1) the improved accessibility and reduced travel times for persons and goods within and between nations, regions, States, and metropolitan areas;

''(2) the safety of the public;

''(3) the security of the Nation and the public;

''(4) environmental protection;

''(5) energy conservation and security, including reducing transportation-related energy use;

''(6) international and interstate freight movement, trade enhancement, job creation, and economic development;

''(7) responsible planning to address population distribution and employment and sustainable development;

''(8) the preservation and adequate performance of system-critical transportation assets, as defined by the Secretary;

''(9) reasonable access to the national surface transportation system for all system users, including rural communities;

''(10) the sustainable and adequate financing of the national surface transportation system; and

''(11) innovation in transportation services, infrastructure, and technology.

''(c) GOALS.—

''(1) SPECIFIC GOALS.—The goals of the policy shall be—

''(A) to reduce average per capita peak period travel times on an annual basis;

''(B) to reduce national motor vehicle-related and truck-related fatalities by 50 percent by 2030;

''(C) to reduce national surface transportation delays per capita on an annual basis;

''(D) to improve the access to employment opportunities and other economic activities;

''(E) to increase the percentage of system-critical surface transportation assets, as defined by the Secretary, that are in a state of good repair by 20 percent by 2030;

''(F) to improve access to public transportation, intercity passenger rail services, and non-motorized transportation where travel demand warrants;

''(G) to reduce passenger and freight transportation infrastructure-related delays entering into and out of international points of entry on an annual basis;

''(H) to increase travel time reliability on major freight corridors that connect major population centers to freight generators and international gateways on an annual basis;

''(I) to ensure adequate transportation of domestic energy supplies and promote energy security;

''(J) to maintain or reduce the percentage of gross domestic product consumed by transportation costs; and

''(K) to reduce transportation-related impacts on the environment and on communities.

''(2) BASELINES.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary shall develop baselines for the goals and shall determine appropriate methods of data collection to measure the attainment of the goals.''.

(b) FREIGHT POLICY.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 33002(a) of this Act, is amended by adding at the end the following:

''§ 312. National freight transportation policy.

''(a) NATIONAL FREIGHT TRANSPORTATION POLICY.—It is the policy of the United States to improve the efficiency, operation, and security of the national transportation system to move freight by leveraging investments and promoting partnerships that advance interstate and foreign commerce, promote economic competitiveness and job creation, improve the safe and efficient mobility of goods, and protect the public health and the environment.

''(b) OBJECTIVES.—The objectives of the policy are—

''(1) to target investment in freight transportation projects that strengthen the economic competitiveness of the United States with a focus on domestic industries and businesses and the creation and retention of high-value jobs;

''(2) to promote and advance energy conservation and the environmental sustainability of freight movements;

''(3) to facilitate and advance the safety and health of the public, including communities adjacent to freight movements;

''(4) to provide for systematic and balanced investment to improve the overall performance and reliability of the national transportation system to move freight, including ensuring trade facilitation and transportation system improvements are mutually supportive;

''(5) to promote partnerships between Federal, State, and local governments, the private sector, and other transportation stakeholders to leverage investments in freight transportation projects; and

''(6) to encourage adoption of operational policies, such as intelligent transportation systems, to improve the efficiency of freight-related transportation movements and infrastructure.''.

(c) CONFORMING AMENDMENTS.—The table of contents for chapter 3 of title 49, United States Code, is amended—

(1) by redesignating the items relating to sections 304 through 306 as sections 307 through 309, respectively;

(2) by redesignating the items relating to sections 308 and 309 as sections 310 and 311, respectively;

(3) by redesignating the items relating to sections 303 and 303a as sections 305 and 306, respectively;

(4) by inserting after the item relating to section 302 the following:

''303. National surface transportation policy.'';

and

(5) by inserting after the item relating to section 311 the following:

''312. National freight transportation policy.''.

SEC. 33003. SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.

(a) SURFACE TRANSPORTATION AND FREIGHT STRATEGIC PLAN.—Subchapter I of chapter 3 of title 49, United States Code, as amended by section 33002 of this Act, is amended by inserting after section 303 the following—

''§ 304. National surface transportation and freight strategic performance plan.

''(a) DEVELOPMENT.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, the Secretary of Transportation shall develop and implement a National Surface Transportation and Freight Performance Plan to achieve the policy, objectives, and goals set forth in sections 303 and 312 .

''(b) CONTENTS.—The plan shall include—

''(1) an assessment of the current performance of the national surface transportation system and an analysis of the system's ability to achieve the policy, objectives, and goals set forth in sections 303 and 312;

''(2) an analysis of emerging and long-term projected trends, including economic and national trade policies, that will impact the performance, needs, and uses of the national surface transportation system, including the system to move freight;

''(3) a description of the major challenges to effectively meeting the policy, objectives, and goals set forth in sections 303 and 312 and a plan to address such challenges;

''(4) a comprehensive strategy and investment plan to meet the policy, objectives, and goals set forth in sections 303 and 312, including a strategy to develop the coalitions,

partnerships, and other collaborative financing efforts necessary to ensure stable, reliable funding and completion of freight corridors and projects;

''(5) initiatives to improve transportation modeling, research, data collection, and analysis, including those to assess impacts on public health, and environmental conditions;

''(6) guidelines to encourage the appropriate balance of means to finance the national transportation system to move freight to implement the plan and the investment plan proposed under paragraph (4); and

''(7) a list of priority freight corridors and gateways to be improved and developed to meet the policy, objectives, and goals set forth in section 312.

''(c) CONSULTATION.—In developing the plan required by subsection (a), the Secretary shall—

''(1) consult with appropriate Federal agencies, local, State, and tribal governments, public and private transportation stakeholders, non-profit organizations representing transportation employees, appropriate foreign governments, and other interested parties;

''(2) consider on-going Federal, State, and corridor-wide transportation plans;

''(3) provide public notice and hearings and solicit public comments on the plan, and

''(4) as appropriate, establish advisory committees to assist with developing the plan.

''(d) SUBMITTAL AND PUBLICATION.—The Secretary shall—

''(1) submit the completed plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives; and

''(2) post the completed plan on the Department of Transportation's public web site.

''(e) PROGRESS REPORTS.—The Secretary shall submit biennial progress reports on the implementation of the plan beginning 2 years after the date of submittal of the plan under subsection (d)(1). Each progress report shall—

''(1) describe progress made toward fully implementing the plan and achieving the policies, objectives, and goals established under sections 303 and 312;

''(2) describe challenges and obstacles to full implementation;

''(3) describe updates to the plan necessary to reflect changed circumstances or new developments; and

''(4) make policy and legislative recommendations the Secretary believes are necessary and appropriate to fully implement the plan.

''(f) DATA.—The Secretary shall have the authority to conduct studies, gather information, and require the production of data necessary to develop or update this plan, consistent with Federal privacy standards.

''(g) IMPLEMENTATION.—The Secretary shall—

''(1) develop appropriate performance criteria and data collections systems for each Federal surface transportation program consistent with this chapter and the Secretary's statutory authority within these programs to evaluate:

''(A) whether such programs are consistent with the policy, objectives, and goals established by sections 303 and 312; and

''(B) how effective such programs are in contributing to the achievement of the policy, objectives, and goals established by sections 303 and 312;

''(2) using the criteria developed under paragraph (1), periodically evaluate each such program and provide the results to the public;

''(3) based on the evaluation performed under paragraph (2), make any necessary changes or improvements to such programs to ensure such consistency and effectiveness consistent with the Secretary's statutory authority within these programs ;

''(4) implement this section in a manner that is consistent with sections 302, 5301, 5503, 10101, and 13101 of this title and section 101 of title 23;

''(5) review all relevant surface transportation planning requirements to determine whether such regional, State, and local surface transportation planning efforts funded with Federal funds are consistent with the policy, objectives, and goals established by this section; and

''(6) require States and metropolitan planning organizations to report on the use of Federal surface transportation funds, consistent with ongoing reporting requirements, to provide the Secretary with sufficient information to determine—

''(A) which projects and priorities were funded with such funds;

''(B) the rationale and method employed for apportioning such funds to the projects and priorities; and

''(C) how the obligation of such funds is consistent with or advances the policy, objectives, and goals established by sections 303 and 312 and the statutory sections referenced in paragraph (4).''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 3 of title 49, United States Code, is amended by inserting after the item relating to section 303 the following:

''304. National surface transportation and freight strategic performance plan.''.

SEC. 33004. TRANSPORTATION INVESTMENT DATA AND PLANNING TOOLS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall—

(1) develop new tools or improve existing tools to support an outcome-oriented, performance-based approach to evaluate proposed freight-related and other surface transportation projects. These new or improved tools shall include—

(A) a systematic cost-benefit analysis that supports a valuation of modal alternatives;

(B) an evaluation of external effects on congestion, pollution, the environment, and the public health; and

(C) other elements to assist in effective transportation planning; and

(2) facilitate the collection of transportation-related data to support a broad range of evaluation methods and techniques such as demand forecasts, modal diversion forecasts, estimates of the effect of proposed investments on congestion, pollution, public health, and other factors, to assist in making transportation investment decisions. At a minimum, the Secretary, in consultation with other relevant Federal agencies, shall consider any improvements to the Commodity Flow Survey that reduce identified freight data gaps and deficiencies and help evaluate forecasts of transportation demand.

(b) CONSULTATION.—To the extent practicable, the Secretary shall consult with Federal, State, and local transportation planners to develop, improve, and implement the tools and collect the data under subsection (a).

(c) ESTABLISHMENT OF PILOT PROGRAM.—

(1) ESTABLISHMENT.—To assist in the development of tools under subsection (a) and to inform the National Surface Transportation and Freight Performance Plan required by section 304 of title 49, United States Code, the Secretary shall establish a pilot program under which the Secretary shall conduct case studies of States and metropolitan planning organizations that are designed—

(A) to provide more detailed, in-depth analysis and data collection with respect to transportation programs; and

(B) to apply rigorous methods of measuring and addressing the effectiveness of program participants in achieving national transportation goals.

(2) PRELIMINARY REQUIREMENTS.—

(A) SOLICITATION.—The Secretary shall solicit applications to participate in the pilot program from States and metropolitan planning organizations.

(B) NOTIFICATION.—A State or metropolitan planning organization that desires to participate in the pilot program shall notify the Secretary of such desire before a date determined by the Secretary.

(C) SELECTION.—

(i) NUMBER OF PROGRAM PARTICIPANTS.—The Secretary shall select to participate in the pilot program—

(I) not fewer than 3, and not more than 5, States; and

(II) not fewer than 3, and not more than 5, metropolitan planning organizations.

(ii) TIMING.—The Secretary shall select program participants not later than 3 months after the date of enactment of this Act.

(iii) DIVERSITY OF PROGRAM PARTICIPANTS.—The Secretary shall, to the extent practicable, select program participants that represent a broad range of geographic and demographic areas (including rural and urban areas) and types of transportation programs.

(d) CASE STUDIES.—

(1) BASELINE REPORT.—Not later than 6 months after the date of enactment of this Act, each program participant shall submit to the Secretary a baseline report that—

(A) describes the reporting and data collection processes of the program participant for transportation investments that are in effect on the date of the report;

(B) assesses how effective the program participant is in achieving the national surface transportation goals in section 303 of title 49, United States Code;

(C) describes potential improvements to the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, and the challenges to implementing such improvements; and

(D) includes an assessment of whether, and specific reasons why, the preparation and submission of the baseline report may be limited, incomplete, or unduly burdensome, including any recommendations for facilitating the preparation and submission of similar reports in the future.

(2) EVALUATION.—Each program participant shall work cooperatively with the Secretary to evaluate the methods and metrics used to measure the effectiveness of the program participant in achieving national surface transportation goals in section 303 of title 49, United States Code, including—

(A) by considering the degree to which such methods and metrics take into account—

(i) the factors that influence the effectiveness of the program participant in achieving the national surface transportation goals;

(ii) all modes of transportation; and

(iii) the transportation program as a whole, rather than individual projects within the transportation program; and

(B) by identifying steps that could be used to implement the potential improvements identified under paragraph (1)(C).

(3) FINAL REPORT.—Not later than 18 months after the date of enactment of this

section, each program participant shall submit to the Secretary a comprehensive final report that—

(A) contains an updated assessment of the effectiveness of the program participant in achieving national surface transportation goals under section 303 of title 49, United States Code; and

(B) describes the ways in which the performance of the program participant in collecting and reporting data and carrying out the transportation program of the program participant has improved or otherwise changed since the date of submission of the baseline report under subparagraph (A).

SEC. 33005. PORT INFRASTRUCTURE DEVELOPMENT INITIATIVE.

Section 50302(c)(3)(C) of title 46, United States Code, is amended to read as follows:

''(C) TRANSFERS.—Amounts appropriated or otherwise made available for any fiscal year for a marine facility or intermodal facility that includes maritime transportation may be transferred, at the option of the recipient of such amounts, to the Fund and administered by the Administrator as a component of a project under the program.''.

SEC. 33006. SAFETY FOR MOTORIZED AND NONMOTORIZED USERS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''§ 413. Safety for motorized and nonmotorized users

''(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Surface Transportation and Freight Policy Act of 2012, subject to subsection (b), the Secretary shall establish standards to ensure that the design of Federal surface transportation projects provides for the safe and adequate accommodation, in all phases of project planning, development, and operation, of all users of the transportation network, including motorized and nonmotorized users.

''(b) WAIVER FOR STATE LAW OR POLICY.—The Secretary may waive the application of standards established under subsection (a) to a State that has adopted a law or policy that provides for the safe and adequate accommodation as certified by the State (or other grantee), in all phases of project planning and development, of users of the transportation network on federally funded surface transportation projects, as determined by the Secretary.

''(c) COMPLIANCE.—

''(1) IN GENERAL.—Each State department of transportation shall submit to the Secretary, at such time, in such manner, and containing such information as the Secretary shall require, a report describing the implementation by the State of measures to achieve compliance with this section.

''(2) DETERMINATION BY SECRETARY.—On receipt of a report under paragraph (1), the Secretary shall determine whether the applicable State has achieved compliance with this section.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end the following:

''413. Safety for motorized and nonmotorized users.''.

TITLE IV—HAZARDOUS MATERIALS TRANSPORTATION SAFETY IMPROVEMENT ACT OF 2012

SEC. 34001. SHORT TITLE.

This title may be cited as the ''Hazardous Materials Transportation Safety Improvement Act of 2012''.

SEC. 34002. DEFINITION.

In this title, the term ''Secretary'' means the Secretary of Transportation.

SEC. 34003. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 34004. TRAINING FOR EMERGENCY RESPONDERS.

(a) TRAINING CURRICULUM.—Section 5115 is amended—

(1) in subsection (b)(1)(B), by striking ''basic'';

(2) in subsection (b)(2), by striking ''basic''; and

(3) in subsection (c), by striking ''basic''.

(b) OPERATIONS LEVEL TRAINING.—Section 5116 is amended—

(1) in subsection (b)(1), by adding at the end the following: ''To the extent that a grant is used to train emergency responders, the State or Indian tribe shall provide written certification to the Secretary that the emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.'';

(2) in subsection (j)—

(A) by redesignating paragraph (5) as paragraph (7); and

(B) by inserting after paragraph (4) the following:

''(5) The Secretary may not award a grant to an organization under this subsection unless the organization ensures that emergency responders who receive training under the grant will have the ability to protect nearby persons, property, and the environment from the effects of accidents or incidents involving the transportation of hazardous material in accordance with existing regulations or National Fire Protection Association standards for competence of responders to hazardous materials.

''(6) Notwithstanding paragraphs (1) and (3), to the extent determined appropriate by the Secretary, a grant awarded by the Secretary to an organization under this subsection to conduct hazardous material response training programs may be used to train individuals with responsibility to respond to accidents and incidents involving hazardous material.''; and

(3) in subsection (k)—

(A) by striking ''annually'' and inserting ''an annual report'';

(B) by inserting ''the report'' after ''make available'';

(C) by striking ''information'' and inserting ''. The report submitted under this subsection shall include information''; and

(D) by striking ''The report shall identify'' and all that follows and inserting the following: ''The report submitted under this subsection shall identify the ultimate recipients of such grants and include—

''(A) a detailed accounting and description of each grant expenditure by each grant recipient, including the amount of, and purpose for, each expenditure;

''(B) the number of persons trained under the grant program, by training level;

''(C) an evaluation of the efficacy of such planning and training programs; and

''(D) any recommendations the Secretary may have for improving such grant programs.''.

SEC. 34005. PAPERLESS HAZARD COMMUNICATIONS PILOT PROGRAM.

(a) IN GENERAL.—The Secretary may conduct pilot projects to evaluate the feasibility and effectiveness of using paperless hazard communications systems. At least 1 of the pilot projects under this section shall take place in a rural area.

(b) REQUIREMENTS.—In conducting pilot projects under this section, the Secretary—

(1) may not waive the requirements under section 5110 of title 49, United States Code; and

(2) shall consult with organizations representing—

(A) fire services personnel;

(B) law enforcement and other appropriate enforcement personnel;

(C) other emergency response providers;

(D) persons who offer hazardous material for transportation;

(E) persons who transport hazardous material by air, highway, rail, and water; and

(F) employees of persons who transport or offer for transportation hazardous material by air, highway, rail, and water.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall—

(1) prepare a report on the results of the pilot projects carried out under this section, including—

(A) a detailed description of the pilot projects;

(B) an evaluation of each pilot project, including an evaluation of the performance of each paperless hazard communications system in such project;

(C) an assessment of the safety and security impact of using paperless hazard communications systems, including any impact on the public, emergency response, law enforcement, and the conduct of inspections and investigations; and

(D) a recommendation on whether paperless hazard communications systems should be permanently incorporated into the Federal hazardous material transportation safety program under chapter 51 of title 49, United States Code; and

(2) submit a final report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the results of the pilot projects carried out under this section, including the matters described in paragraph (1).

(d) PAPERLESS HAZARD COMMUNICATIONS SYSTEM DEFINED.—In this section, the term ''paperless hazard communications system'' means the use of advanced communications methods, such as wireless communications devices, to convey hazard information between all parties in the transportation chain, including emergency responders and law enforcement personnel. The format of communication may be equivalent to that used by the carrier.

SEC. 34006. IMPROVING DATA COLLECTION, ANALYSIS, AND REPORTING.

(a) ASSESSMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary, in coordination with the Secretary of Homeland Security, as appropriate, shall conduct an assessment to improve the collection, analysis, reporting, and use of data related to accidents and incidents involving the transportation of hazardous material.

(2) REVIEW.—The assessment conducted under this subsection shall review the methods used by the Pipeline and Hazardous Materials Safety Administration (referred to in this section as the ''Administration'') for collecting, analyzing, and reporting accidents and incidents involving the transportation of hazardous material, including the adequacy of—

(A) information requested on the accident and incident reporting forms required to be submitted to the Administration;

(B) methods used by the Administration to verify that the information provided on such forms is accurate and complete;

(C) accident and incident reporting requirements, including whether such requirements should be expanded to include shippers and consignees of hazardous materials;

(D) resources of the Administration related to data collection, analysis, and reporting, including staff and information technology; and

(E) the database used by the Administration for recording and reporting such accidents and incidents, including the ability of users to adequately search the database and find information.

(b) DEVELOPMENT OF ACTION PLAN.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall develop an action plan and timeline for improving the collection, analysis, reporting, and use of data by the Administration, including revising the database of the Administration, as appropriate.

(c) SUBMISSION TO CONGRESS.—Not later than 15 days after the completion of the action plan and timeline under subsection (c), the Secretary shall submit the action plan and timeline to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) REPORTING REQUIREMENTS.—Section 5125(b)(1)(D) is amended by inserting ''and other hazardous materials transportation incident reporting to the 9–1–1 emergency system or involving State or local emergency responders in the initial response to the incident'' before the period at the end.

SEC. 34007. LOADING AND UNLOADING OF HAZARDOUS MATERIALS.

(a) RULEMAKING.—Not later than 2 years after date of the enactment of this Act, the Secretary, after consultation with the Department of Labor and the Environmental Protection Agency, as appropriate, and after providing notice and an opportunity for public comment shall prescribe regulations establishing uniform procedures among facilities for the safe loading and unloading of hazardous materials on and off tank cars and cargo tank trucks.

(b) INCLUSION.—The regulations prescribed under subsection (a) may include procedures for equipment inspection, personnel protection, and necessary safeguards.

(c) CONSIDERATION.—In prescribing regulations under subsection (a), the Secretary shall give due consideration to carrier rules and procedures that produce an equivalent level of safety.

SEC. 34008. HAZARDOUS MATERIAL TECHNICAL ASSESSMENT, RESEARCH AND DEVELOPMENT, AND ANALYSIS PROGRAM.

(a) IN GENERAL.—Chapter 51 is amended by inserting after section 5117 the following:

''§ 5118. Hazardous material technical assessment, research and development, and analysis program

''(a) RISK REDUCTION.—

''(1) PROGRAM AUTHORIZED.—The Secretary of Transportation may develop and implement a hazardous material technical assessment, research and development, and analysis program for the purpose of—

''(A) reducing the risks associated with the transportation of hazardous material; and

''(B) identifying and evaluating new technologies to facilitate the safe, secure, and efficient transportation of hazardous material.

''(2) COORDINATION.—In developing the program under paragraph (1), the Secretary shall—

''(A) utilize information gathered from other modal administrations with similar programs; and

''(B) coordinate with other modal administrations, as appropriate.

''(b) COOPERATION.—In carrying out subsection (a), the Secretary may work cooperatively with regulated and other entities, including shippers, carriers, emergency responders, State and local officials, and academic institutions.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by inserting after the item relating to section 5117 the following:

''5118. Hazardous material technical assessment, research and development, and analysis program.''.

SEC. 34009. HAZARDOUS MATERIAL ENFORCEMENT TRAINING PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a multimodal hazardous material enforcement training program for government hazardous materials inspectors and investigators—

(1) to develop uniform performance standards for training hazardous material inspectors and investigators; and

(2) to train hazardous material inspectors and investigators on—

(A) how to collect, analyze, and publish findings from inspections and investigations of accidents or incidents involving the transportation of hazardous material; and

(B) how to identify noncompliance with regulations issued under chapter 51 of title 49, United States Code, and take appropriate enforcement action.

(b) STANDARDS AND GUIDELINES.—Under the program established under this section, the Secretary may develop—

(1) guidelines for hazardous material inspector and investigator qualifications;

(2) best practices and standards for hazardous material inspector and investigator training programs; and

(3) standard protocols to coordinate investigation efforts among Federal, State, and local jurisdictions on accidents or incidents involving the transportation of hazardous material.

(c) AVAILABILITY.—The standards, protocols, and findings of the program established under this section—

(1) shall be mandatory for—

(A) the Department of Transportation's multimodal personnel conducting hazardous material enforcement inspections or investigations; and

(B) State employees who conduct federally funded compliance reviews, inspections, or investigations; and

(2) shall be made available to Federal, State, and local hazardous materials safety enforcement personnel.

SEC. 34010. INSPECTIONS.

(a) NOTICE OF ENFORCEMENT MEASURES.—Section 5121(c)(1) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) shall provide to the affected offeror, carrier, packaging manufacturer or tester, or other person responsible for the package reasonable notice of—

''(i) his or her decision to exercise his or her authority under paragraph (1);

''(ii) any findings made; and

''(iii) any actions being taken as a result of a finding of noncompliance.''.

(b) REGULATIONS.—Section 5121(e) is amended by adding at the end the following:

''(3) MATTERS TO BE ADDRESSED.—The regulations issued under this subsection shall address—

''(A) the safe and expeditious resumption of transportation of perishable hazardous material, including radiopharmaceuticals and other medical products, that may require timely delivery due to life-threatening situations;

''(B) the means by which—

''(i) noncompliant packages that present an imminent hazard are placed out-of-service until the condition is corrected; and

''(ii) noncompliant packages that do not present a hazard are moved to their final destination;

''(C) appropriate training and equipment for inspectors; and

''(D) the proper closure of packaging in accordance with the hazardous material regulations.''.

(c) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121(g)(1) is amended by inserting ''safety and'' before ''security''.

SEC. 34011. CIVIL PENALTIES.

Section 5123 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''$50,000'' and inserting ''$75,000''; and

(B) in paragraph (2), by striking ''$100,000'' and inserting ''$175,000''; and

(2) by adding at the end the following:

''(h) PENALTY FOR OBSTRUCTION OF INSPECTIONS AND INVESTIGATIONS.—The Secretary may impose a penalty on a person who obstructs or prevents the Secretary from carrying out inspections or investigations under subsection (c) or (i) of section 5121.

''(i) PROHIBITION ON HAZARDOUS MATERIAL OPERATIONS AFTER NONPAYMENT OF PENALTIES.—

''(1) IN GENERAL.—Except as provided under paragraph (2), a person subject to the jurisdiction of the Secretary under this chapter who fails to pay a civil penalty assessed under this chapter, or fails to arrange and abide by an acceptable payment plan for such civil penalty, may not conduct any activity regulated under this chapter beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty unless the person has filed a formal administrative or judicial appeal of the penalty.

''(2) EXCEPTION.—Paragraph (1) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.

''(3) RULEMAKING.—Not later than 2 years after the date of the enactment of this subsection, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that—

''(A) set forth procedures to require a person who is delinquent in paying civil penalties to cease any activity regulated under this chapter until payment has been made or an acceptable payment plan has been arranged; and

''(B) ensures that the person described in subparagraph (A)—

''(i) is notified in writing; and

''(ii) is given an opportunity to respond before the person is required to cease the activity.''.

SEC. 34012. REPORTING OF FEES.

Section 5125(f)(2) is amended by striking '', upon the Secretary's request,'' and inserting ''biennially''.

SEC. 34013. SPECIAL PERMITS, APPROVALS, AND EXCLUSIONS.

(a) IN GENERAL.—Section 5117 is amended to read as follows:

''§ 5117. Special permits, approvals, and exclusions

''(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

''(1) CONDITIONS.—The Secretary of Transportation may issue, modify, or terminate a special permit implementing new technologies or authorizing a variance from a

provision under this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 to a person performing a function regulated by the Secretary under section 5103(b)(1) to achieve—

''(A) a safety level at least equal to the safety level required under this chapter; or

''(B) a safety level consistent with the public interest and this chapter, if a required safety level does not exist.

''(2) FINDINGS REQUIRED.—

''(A) IN GENERAL.—Before issuing, renewing, or modifying a special permit or granting party status to a special permit, the Secretary shall determine that the person is fit to conduct the activity authorized by such permit in a manner that achieves the level of safety required under paragraph (1).

''(B) CONSIDERATIONS.—In making the determination under subparagraph (A), the Secretary shall consider—

''(i) the person's safety history (including prior compliance history);

''(ii) the person's accident and incident history; and

''(iii) any other information the Secretary considers appropriate to make such a determination.

''(3) EFFECTIVE PERIOD.—A special permit issued under this section—

''(A) shall be for an initial period of not more than 2 years;

''(B) may be renewed by the Secretary upon application—

''(i) for successive periods of not more than 4 years each; or

''(ii) in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

''(b) APPLICATIONS.—

''(1) REQUIRED DOCUMENTATION.—When applying for a special permit or the renewal or modification of a special permit or requesting party status to a special permit under this section, the Secretary shall require the person to submit an application that contains—

''(A) a detailed description of the person's request;

''(B) a listing of the person's current facilities and addresses where the special permit will be utilized;

''(C) a safety analysis prescribed by the Secretary that justifies the special permit;

''(D) documentation to support the safety analysis;

''(E) a certification of safety fitness; and

''(F) proof of registration, as required under section 5108.

''(2) PUBLIC NOTICE.—The Secretary shall—

''(A) publish notice in the Federal Register that an application for a special permit has been filed; and

''(B) provide the public an opportunity to inspect and comment on the application.

''(3) SAVINGS CLAUSE.—This subsection does not require the release of information protected by law from public disclosure.

''(c) COORDINATE AND COMMUNICATE WITH MODAL CONTACT OFFICIALS.—

''(1) IN GENERAL.—In evaluating applications under subsection (b), and making the findings and determinations under subsections (a), (e), and (h), the Administrator of the Pipeline and Hazardous Materials Safety Administration shall consult, coordinate, or notify the modal contact official responsible for the specified mode of transportation that will be utilized under a special permit or approval before—

''(A) issuing, modifying, or renewing the special permit;

''(B) granting party status to the special permit; or

''(C) issuing or renewing the special permit or approval.

''(2) MODAL CONTACT OFFICIAL DEFINED.—In this section, the term 'modal contact official' means—

''(A) the Administrator of the Federal Aviation Administration;

''(B) the Administrator of the Federal Motor Carrier Safety;

''(C) the Administrator of the Federal Railroad Administration; and

''(D) the Commandant of the Coast Guard.

''(d) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall—

''(1) issue, modify, renew, or grant party status to a special permit or approval for which a request was filed under this section, or deny the issuance, modification, renewal, or grant, on or before the last day of the 180-day period beginning on the first day of the month following the date of the filing of the request; or

''(2) publish a statement in the Federal Register that—

''(A) describes the reason for the delay of the Secretary's decision on the special permit or approval; and

''(B) includes an estimate of the additional time necessary before the decision is made.

''(e) EMERGENCY PROCESSING OF SPECIAL PERMITS.—

''(1) FINDINGS REQUIRED.—The Secretary may not grant a request for emergency processing of a special permit unless the Secretary determines that—

''(A) a special permit is necessary for national security purposes;

''(B) processing on a routine basis under this section would result in significant injury to persons or property; or

''(C) a special permit is necessary to prevent significant economic loss or damage to the environment that could not be prevented if the application were processed on a routine basis.

''(2) WAIVER OF FITNESS TEST.—The Secretary may waive the requirement under subsection (a)(2) for a request for which the Secretary makes a determination under subparagraph (A) or (B) of paragraph (1).

''(3) NOTIFICATION.—Not later than 90 days after the date of issuance of a special permit under this subsection, the Secretary shall publish a notice in the Federal Register of the issuance that includes—

''(A) a statement of the basis for the finding of emergency; and

''(B) the scope and duration of the special permit.

''(4) EFFECTIVE PERIOD.—A special permit issued under this subsection shall be effective for a period not to exceed 180 days.

''(f) EXCLUSIONS.—

''(1) IN GENERAL.—The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

''(A) a public vessel (as defined in section 2101 of title 46);

''(B) a vessel exempted under section 3702 of title 46 or from chapter 37 of title 46; and

''(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221, et seq.).

''(2) FIREARMS.—This chapter and regulations prescribed under this chapter do not prohibit—

''(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

''(B) transportation of a firearm or ammunition in commerce.

''(g) LIMITATION ON AUTHORITY.—Unless the Secretary decides that an emergency exists, a person subject to this chapter may only be granted a variance from this chapter through a special permit or renewal granted under this section.

''(h) APPROVALS.—

''(1) FINDINGS REQUIRED.—

''(A) IN GENERAL.—The Secretary may not issue an approval or grant the renewal of an approval pursuant to part 107 of title 49, Code of Federal Regulations until the Secretary has determined that the person is fit, willing, and able to conduct the activity authorized by the approval in a manner that achieves the level of safety required under subsection (a)(1).

''(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Secretary shall consider—

''(i) the person's safety history (including prior compliance history);

''(ii) the person's accident and incident history; and

''(iii) any other information the Secretary considers appropriate to make such a determination.

''(2) REQUIRED DOCUMENTATION.—When applying for an approval or renewal or modification of an approval under this section, the Secretary shall require the person to submit an application that contains—

''(A) a detailed description of the person's request;

''(B) a listing of the persons current facilities and addresses where the approval will be utilized;

''(C) a safety analysis prescribed by the Secretary that justifies the approval;

''(D) documentation to support the safety analysis;

''(E) a certification of safety fitness; and

''(F) the verification of registration required under section 5108.

''(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to require the release of information protected by law from public disclosure.

''(i) NONCOMPLIANCE.—The Secretary may modify, suspend, or terminate a special permit or approval if the Secretary determines that—

''(1) the person who was granted the special permit or approval has violated the special permit or approval or the regulations issued under this chapter in a manner that demonstrates that the person is not fit to conduct the activity authorized by the special permit or approval; or

''(2) the special permit or approval is unsafe.

''(j) RULEMAKING.—Not later than 2 years after the date of the enactment of the Hazardous Materials Transportation Safety Improvement Act of 2012, the Secretary, after providing notice and an opportunity for public comment, shall issue regulations that establish—

''(1) standard operating procedures to support administration of the special permit and approval programs; and

''(2) objective criteria to support the evaluation of special permit and approval applications.

''(k) ANNUAL REVIEW OF CERTAIN SPECIAL PERMITS.—

''(1) REVIEW.—The Secretary shall conduct an annual review and analysis of special permits—

''(A) to identify consistently used and longstanding special permits with an established safety record; and

''(B) to determine whether such permits may be converted into the hazardous materials regulations.

''(2) FACTORS.—In conducting the review and analysis under paragraph (1), the Secretary may consider—

''(A) the safety record for hazardous materials transported under the special permit;

''(B) the application of a special permit;

''(C) the suitability of provisions in the special permit for incorporation into the hazardous materials regulations; and

''(D) rulemaking activity in related areas.

''(3) RULEMAKING.—After completing the review and analysis under paragraph (1) and providing notice and opportunity for public comment, the Secretary shall issue regulations, as needed.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5117 and inserting the following:

''5117. Special permits, approvals, and exclusions.''.

SEC. 34014. HIGHWAY ROUTING DISCLOSURES.

(a) LIST OF ROUTE DESIGNATIONS.—Section 5112(c) is amended—

(1) by striking ''In coordination'' and inserting the following:

''(1) IN GENERAL.—In coordination''; and

(2) by adding at the end the following:

''(2) STATE RESPONSIBILITIES.—

''(A) IN GENERAL.—Each State shall submit to the Secretary, in a form and manner to be determined by the Secretary and in accordance with subparagraph (B)—

''(i) the name of the State agency responsible for hazardous material highway route designations; and

''(ii) a list of the State's currently effective hazardous material highway route designations.

''(B) FREQUENCY.—Each State shall submit the information described in subparagraph (A)(ii)—

''(i) at least once every 2 years; and

''(ii) not later than 60 days after a hazardous material highway route designation is established, amended, or discontinued.''.

(b) COMPLIANCE WITH SECTION 5112.—Section 5125(c)(1) is amended by inserting '', and is published in the Department's hazardous materials route registry under section 5112(c)'' before the period at the end.

SEC. 34015. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 is amended to read as follows:

''§ 5128. Authorization of appropriations

''(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119)—

''(1) $42,338,000 for fiscal year 2012; and

''(2) $42,762,000 for fiscal year 2013.

''(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—From the Hazardous Materials Emergency Preparedness Fund established under section 5116(i), the Secretary may expend, during each of fiscal years 2012 and 2013—

''(1) $188,000 to carry out section 5115;

''(2) $21,800,000 to carry out subsections (a) and (b) of section 5116, of which not less than $13,650,000 shall be available to carry out section 5116(b);

''(3) $150,000 to carry out section 5116(f);

''(4) $625,000 to publish and distribute the Emergency Response Guidebook under section 5116(i)(3); and

''(5) $1,000,000 to carry out section 5116(j).

''(c) HAZARDOUS MATERIALS TRAINING GRANTS.—From the Hazardous Materials Emergency Preparedness Fund established pursuant to section 5116(i), the Secretary may expend $4,000,000 for each of the fiscal years 2012 and 2013 to carry out section 5107(e).

''(d) CREDITS TO APPROPRIATIONS.—

''(1) EXPENSES.—In addition to amounts otherwise made available to carry out this chapter, the Secretary may credit amounts received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

''(2) AVAILABILITY OF AMOUNTS.—Amounts made available under this section shall remain available until expended.''.

TITLE V—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION REAUTHORIZATION ACT OF 2012

SEC. 35001. SHORT TITLE.

This title may be cited as the ''Research and Innovative Technology Administration Reauthorization Act of 2012''.

SEC. 35002. NATIONAL COOPERATIVE FREIGHT RESEARCH PROGRAM.

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

''(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs conducted by the National Academy of Sciences to ensure program efficiency, effectiveness, and sharing of research findings.''.

SEC. 35003. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding at the end the following:

''CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

''SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

''SUBCHAPTER I—BUREAU OF TRANSPORTATION STATISTICS

''§ 6301. Establishment

''There is established, in the Research and Innovative Technology Administration, a Bureau of Transportation Statistics (referred to in this subchapter as the 'Bureau').

''§ 6302. Director

''(a) APPOINTMENT.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary of Transportation.

''(b) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.

''§ 6303. Responsibilities

''(a) DUTIES OF THE DIRECTOR.—The Director, who shall serve as the Secretary of Transportation's senior advisor on data and statistics, shall be responsible for carrying out the following duties:

''(1) Ensuring that the statistics compiled under paragraph (6) are designed to support transportation decisionmaking by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.

''(2) Establishing a program, on behalf of the Secretary—

''(A) to effectively integrate safety data across modes; and

''(B) to address gaps in existing safety data programs of the Department of Transportation.

''(3) Working with the operating administrations of the Department of Transportation—

''(A) to establish and implement the Bureau's data programs; and

''(B) to improve the coordination of information collection efforts with other Federal agencies.

''(4) Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.

''(5) Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.

''(6) Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

''(A) transportation safety across all modes and intermodally;

''(B) the state of good repair of United States transportation infrastructure.

''(C) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6312;

''(D) economic efficiency throughout the entire transportation sector;

''(E) the effects of the transportation system on global and domestic economic competitiveness;

''(F) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;

''(G) transportation-related variables that influence the domestic economy and global competitiveness;

''(H) the economic costs and impacts for passenger travel and freight movement;

''(I) intermodal and multimodal passenger movement;

''(J) intermodal and multimodal freight movement; and

''(K) the consequences of transportation for the human and natural environment, sustainable transportation, and livable communities.

''(7) Building and disseminating the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906, including—

''(A) coordinating the development of transportation geospatial data standards;

''(B) compiling intermodal geospatial data; and

''(C) collecting geospatial data that is not being collected by others.

''(8) Issuing guidelines for the collection of information by the Department of Transportation that is required for transportation statistics, modeling, economic assessment, and program assessment in order to ensure that such information is accurate, reliable, relevant, uniform and in a form that permits systematic analysis by the Department.

''(9) Reviewing and reporting to the Secretary of Transportation on the sources and reliability of—

''(A) the statistics proposed by the heads of the operating administrations of the Department of Transportation to measure outputs

and outcomes, as required by the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285); and

''(B) other data collected or statistical information published by the heads of the operating administrations of the Department.

''(10) Making the statistics published under this subsection readily accessible to the public, consistent with applicable security constraints and confidentiality interests.

''(b) ACCESS TO FEDERAL DATA.—In carrying out subsection (a)(2), the Director shall be provided access to—

''(1) all safety data held by any agency of the Department; and

''(2) all safety data held by any other Federal Government agency that is germane to carrying out subsection (a), upon written request and subject to any statutory or regulatory restrictions.

''(c) INTERMODAL TRANSPORTATION DATABASE.—

''(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation database for all modes of transportation.

''(2) USE OF DATABASE.—The database established under this subsection shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

''(3) CONTENTS.—The database established under this section shall include—

''(A) information on the volumes and patterns of movement, including local, interregional, and international movement—

''(i) of goods by all modes of transportation and intermodal combinations, and by relevant classification; and

''(ii) of people by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

''(B) information on the location and connectivity of transportation facilities and services; and

''(C) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

''§ 6304. National Transportation Library

''(a) PURPOSE AND ESTABLISHMENT.—There is established, in the Bureau, a National Transportation Library (referred to in this section as the 'Library'), which shall—

''(1) support the information management and decisionmaking needs of transportation at Federal, State, and local levels;

''(2) be headed by an individual who is highly qualified in library and information science;

''(3) acquire, preserve, and manage transportation information and information products and services for use of the Department of Transportation, other Federal agencies, and the general public;

''(4) provide reference and research assistance;

''(5) serve as a central depository for research results and technical publications of the Department of Transportation;

''(6) provide a central clearinghouse for transportation data and information in the Federal Government;

''(7) serve as coordinator and policy lead for transportation information access;

''(8) provide transportation information and information products and services to the Department of Transportation, other agencies of the Federal Government, public and private organizations, and individuals, within the United States and internationally;

''(9) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, in conjunction with private industry and other transportation library and information centers, toward the development of a comprehensive transportation information and knowledge network supporting activities described in subparagraphs (A) through (K) of section 6303(a)(6); and

''(10) engage in such other activities as the Director determines appropriate and as the Library's resources permit.

''(b) ACCESS.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a) to improve—

''(1) the ability of the transportation community to share information; and

''(2) the ability of the Director to make statistics and other information readily accessible under section 6303(a)(10).

''(c) AGREEMENTS.—

''(1) IN GENERAL.—The Director may enter into agreements with, award grants to, and receive funds from any State and other political subdivision, organization, business, or individual for the purpose of conducting activities under this section.

''(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities in connection with matters relating to Department of Transportation's strategic goals, knowledge networking, and national and international cooperation by entering into contracts or awarding grants for the conduct of such activities.

''(3) FUNDS.—Amounts received under this subsection for payments for library products and services or other activities shall—

''(A) be deposited in the Research and Innovative Technology Administration's general fund account; and

''(B) remain available to the Library until expended.

''§ 6305. Advisory Council on Transportation Statistics

''(a) IN GENERAL.—The Director shall maintain an Advisory Council on Transportation Statistics (referred to in this section as the 'Advisory Council').

''(b) FUNCTION.—The Advisory Council shall advise the Director on—

''(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department of Transportation; and

''(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The Advisory Council shall be composed of not fewer than 9 members and not more than 11 members, who shall be appointed by the Director.

''(2) SELECTION.—In selecting members for the Advisory Council, the Director shall appoint individuals who—

''(A) are not officers or employees of the United States;

''(B) possess expertise in—

''(i) transportation data collection, analysis, or application;

''(ii) economics; or

''(iii) transportation safety; and

''(C) represent a cross section of transportation stakeholders, to the greatest extent possible.

''(3) TERMS OF APPOINTMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Advisory Council—

''(i) shall be appointed to staggered terms not to exceed 3 years; and

''(ii) may be renominated for 1 additional 3-year term.

''(B) CURRENT MEMBERS.—Members serving on the Advisory Council as of the date of the enactment of the Research and Innovative Technology Administration Reauthorization Act of 2012 shall serve until the end of their appointed terms.

''(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (except for section 14 of such Act) shall apply to the Advisory Council.

''§ 6306. Transportation statistical collection, analysis, and dissemination

''To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

''(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement for such utilization;

''(2) enter into agreements with agencies and instrumentalities referred to in paragraph (1) for purposes of data collection and analysis;

''(3) confer and cooperate with foreign governments, international organizations, States, municipalities, and other local agencies;

''(4) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section;

''(5) encourage replication, coordination, and sharing among transportation agencies regarding information systems, information policy, and data; and

''(6) confer and cooperate with Federal statistical agencies as needed to carry out the purposes of this section, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

''§ 6307. Furnishing information, data, or reports by Federal agencies

''Federal agencies requested to furnish information, data, or reports under section 6303(b) shall provide such information to the Bureau as is required to carry out the purposes of this section.

''§ 6308. Prohibition on certain disclosures

''(a) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

''(1) make any disclosure in which the data provided by an individual or organization under section 6303 can be identified;

''(2) use the information provided under section 6303 for a nonstatistical purpose; or

''(3) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6303.

''(b) COPIES OF REPORTS.—

''(1) IN GENERAL.—A department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may not require, for any reason, a copy of any report that has been filed under section 6303 with the Bureau or retained by an individual respondent.

''(2) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in paragraph (1) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

''(A) shall be immune from legal process; and

''(B) may not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

''(3) APPLICABILITY.—This subsection shall only apply to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

''(c) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of such data or information, by rule and on the collection instrument, to inform a respondent who is requested or required to supply the data or information of the nonstatistical purpose.

''§ 6309. Data access

''The Director shall be provided access to transportation and transportation-related information in the possession of any Federal agency, except—

''(1) information that is expressly prohibited by law from being disclosed to another Federal agency; or

''(2) information that the agency possessing the information determines could not be disclosed without significantly impairing the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

''§ 6310. Proceeds of data product sales

''Notwithstanding section 3302 of title 31, amounts received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for such expenses.

''§ 6311. Information collection

''As the head of an independent Federal statistical agency, the Director may consult directly with the Office of Management and Budget concerning any survey, questionnaire, or interview that the Director considers necessary to carry out the statistical responsibilities under this subchapter.

''§ 6312. National transportation atlas database

''(a) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—

''(1) transportation networks;

''(2) flows of people, goods, vehicles, and craft over the networks; and

''(3) social, economic, and environmental conditions that affect, or are affected by, the networks.

''(b) INTERMODAL NETWORK ANALYSIS.—The databases developed under subsection (a) shall be capable of supporting intermodal network analysis.

''§ 6313. Limitations on statutory construction

''Nothing in this subchapter may be construed—

''(1) to authorize the Bureau to require any other department or agency to collect data; or

''(2) to reduce the authority of any other officer of the Department to independently collect and disseminate data.

''§ 6314. Research and development grants

''The Secretary may award grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

''(1) investigation of the subjects specified in section 6303 and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;

''(2) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;

''(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under section 6304; and

''(4) development and improvement of methods for sharing geographic data, in support of the database under section 6303 and the National Spatial Data Infrastructure.

''§ 6315. Transportation statistics annual report

''The Director shall submit to the President and Congress a transportation statistics annual report, which shall include—

''(1) information on items referred to in section 6303(a)(6);

''(2) documentation of methods used to obtain and ensure the quality of the statistics presented in the report; and

''(3) recommendations for improving transportation statistical information.

''§ 6316. Mandatory response authority for data collections

''Any individual who, as the owner, official, agent, person in charge, or assistant to the person in charge of any corporation, company, business, institution, establishment, organization of any nature or the member of a household, neglects or refuses, after requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer completely and correctly to the best of the individual's knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization or household, or to make available records or statistics in the individual's official custody, contained in a data collection request prepared and submitted under section 6303(a)—

''(1) shall be fined not more than $500, except as provided under paragraph (2); and

''(2) if the individual willfully gives a false answer to such a question, shall be fined not more than $10,000.''.

(b) RULES OF CONSTRUCTION.—In transferring the provisions under section 111 of title 49, United States Code, to chapter 63 of title 49, as added by subsection (a), the following rules of construction shall apply:

(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a provision under chapter 63 of title 49, United States Code, is deemed to have been enacted on the date of the enactment of the corresponding provision under section 111 of such title.

(2) A reference to a provision under such chapter 65 is deemed to refer to the corresponding provision under such section 111.

(3) A reference to a provision under such section 111, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision under such chapter 65.

(4) A regulation, order, or other administrative action authorized by a provision under such section 111 continues to be authorized by the corresponding provision under such chapter 65.

(5) An action taken or an offense committed under a provision of such section 111 is deemed to have been taken or committed under the corresponding provision of such chapter 65.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Chapter 1 of title 49, United States Code, is amended—

(A) by repealing section 111; and

(B) by striking the item relating to section 111 in the chapter analysis.

(2) ANALYSIS OF SUBTITLE III.—The table of chapters for subtitle III of title 49, United States Code, is amended by inserting after the item for chapter 61 the following:

''63. Bureau of Transportation Statistics ..... 6301''.

SEC. 35004. 5.9 GHZ VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.

(a) IN GENERAL.—Subchapter I of chapter 55 of title 49, United States Code, is amended by adding at the end the following:

''§ 5507. GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment

''(a) IN GENERAL.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Commerce of the House of Representatives that—

''(1) defines a recommended implementation path for Dedicated Short Range Communications (DSRC) technology and applications; and

''(2) includes guidance concerning the relationship of the proposed DSRC deployment to Intelligent Transportation System National Architecture and Standards.

''(b) REPORT REVIEW.—The Secretary shall enter into an agreement for the review of the report submitted under subsection (a) by an independent third party with subject matter expertise.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 55 of title 49, United States Code, is amended by inserting after the item relating to section 5506, the following:

''5507. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.''.

SEC. 35005. ADMINISTRATIVE AUTHORITY.

Section 112 of title 49, United States Code, is amended by inserting after subsection (e) the following:

''(f) PROGRAM EVALUATION AND OVERSIGHT.—The Administrator is authorized to expend not more than 1.5 percent of the amounts authorized to be appropriated for each of the fiscal years 2012 and 2013, for necessary expenses for administration and operations of the Research and Innovative Technology Administration for the coordination, evaluation, and oversight of the programs administered by the Administration.

''(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

''(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

''(B) Federal laboratories; and

''(C) other Federal agencies.

''(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, other transactions, and cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, universities, associations, and the agents of such entities to conduct joint transportation research and technology efforts.

''(3) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection may not exceed 50 percent unless the Secretary approves a greater Federal share due to substantial public interest or benefit.

''(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

''(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

''(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 6101 of title 41 shall not apply to a contract, grant, or other agreement entered into under this chapter.''.

SEC. 35006. PRIZE AUTHORITY.

(a) IN GENERAL.—Chapter 3 of title 49, United States Code, is amended by inserting before section 336 the following:

''SEC. 335. PRIZE AUTHORITY.

''(a) IN GENERAL.—The Secretary of Transportation may carry out a program, in accordance with this section, to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the national transportation system.

''(b) TOPICS.—In selecting topics for prize competitions under this section, the Secretary shall—

''(1) consult with a wide variety of Government and nongovernment representatives; and

''(2) give consideration to prize goals that demonstrate innovative approaches and strategies to improve the safety, efficiency, and sustainability of the national transportation system.

''(c) ADVERTISING.—The Secretary shall encourage participation in the prize competitions through extensive advertising.

''(d) REQUIREMENTS AND REGISTRATION.—For each prize competition, the Secretary shall publish a notice on a public website that describes—

''(1) the subject of the competition;

''(2) the eligibility rules for participation in the competition;

''(3) the amount of the prize; and

''(4) the basis on which a winner will be selected.

''(e) ELIGIBILITY.—An individual or entity may not receive a prize under this section unless the individual or entity—

''(1) has registered to participate in the competition pursuant to any rules promulgated by the Secretary under this section;

''(2) has complied with all the requirements under this section;

''(3)(A) in the case of a private entity, is incorporated in, and maintains a primary place of business in, the United States; or

''(B) in the case of an individual, whether participating singly or in a group, is a citizen or permanent resident of the United States; and

''(4) is not a Federal entity or Federal employee acting within the scope of his or her employment.

''(f) LIABILITY.—

''(1) ASSUMPTION OF RISK.—

''(A) IN GENERAL.—A registered participant shall agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise.

''(B) RELATED ENTITY.—In this paragraph, the term 'related entity' means a contractor, subcontractor (at any tier), supplier, user, customer, cooperating party, grantee, investigator, or detailee.

''(2) FINANCIAL RESPONSIBILITY.—A participant shall obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Secretary, for claims by—

''(A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and

''(B) the Federal Government for damage or loss to Government property resulting from such an activity.

''(g) JUDGES.—

''(1) SELECTION.—For each prize competition, the Secretary, either directly or through an agreement under subsection (h), shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described in subsection (d). Judges for each competition shall include individuals from outside the Administration, including the private sector.

''(2) LIMITATIONS.—A judge selected under this subsection may not—

''(A) have personal or financial interests in, or be an employee, officer, director, or agent of, any entity that is a registered participant in a prize competition under this section; or

''(B) have a familial or financial relationship with an individual who is a registered participant.

''(h) ADMINISTERING THE COMPETITION.—The Secretary may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

''(i) FUNDING.—

''(1) PRIVATE SECTOR FUNDING.—A cash prize under this section may consist of funds appropriated by the Federal Government and funds provided by the private sector. The Secretary may accept funds from other Federal agencies, State and local governments, and metropolitan planning organizations for the cash prizes. The Secretary may not give any special consideration to any private sector entity in return for a donation under this paragraph.

''(2) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for prize awards under this section—

''(A) shall remain available until expended; and

''(B) may not be transferred, reprogrammed, or expended for other purposes until after the expiration of the 10-year period beginning on the last day of the fiscal year for which the funds were originally appropriated.

''(3) SAVINGS PROVISION.—Nothing in this subsection may be construed to permit the obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

''(4) PRIZE ANNOUNCEMENT.—A prize may not be announced under this section until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source.

''(5) PRIZE INCREASES.—The Secretary may increase the amount of a prize after the initial announcement of the prize under this section if—

''(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

''(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

''(6) CONGRESSIONAL NOTIFICATION.—A prize competition under this section may offer a prize in an amount greater than $1,000,000 only after 30 days have elapsed after written notice has been transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

''(7) AWARD LIMIT.—A prize competition under this section may not result in the award of more than $25,000 in cash prizes without the approval of the Secretary.

''(j) USE OF DEPARTMENT NAME AND INSIGNIA.—A registered participant in a prize competition under this section may use the Department's name, initials, or insignia only after prior review and written approval by the Secretary.

''(k) COMPLIANCE WITH EXISTING LAW.—The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.''.

(b) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 49, United States Code, is amended by inserting before the item relating to section 336 the following:

''335. Prize authority.''.

SEC. 35007. TRANSPORTATION RESEARCH AND DEVELOPMENT.

Section 508(a) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''SAFETEA–LU'' and inserting ''Research and Innovative Technology Administration Reauthorization Act of 2012''; and

(2) by amending paragraph (2)(A) to read as follows:

''(A) describe the primary purposes of the transportation research and development program, which shall include—

''(i) promoting safety;

''(ii) reducing congestion and improving mobility;

''(iii) promoting security;

''(iv) protecting and enhancing the environment;

''(v) preserving the existing transportation system; and

''(vi) improving transportation infrastructure, in coordination with Department of Transportation strategic goals and planning efforts;''.

SEC. 35008. USE OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS ACTIVITIES.

Section 513 of title 23, United States Code, is amended to read as follows:

''§ 513. Use of funds for ITS activities

''(a) IN GENERAL.—The Secretary may use not more than $500,000 of the amounts made available to the Department for each fiscal year to carry out the Intelligent Transportation Systems Program (referred to in this section as 'ITS') on intelligent transportation system outreach, websites, public relations, displays, tours, and brochures.

''(b) PURPOSE.—Amounts authorized for use under subsection (a) are intended to develop, administer, communicate, and promote the

use of products of research, technology, and technology transfer programs under this section.

''(c) ITS DEPLOYMENT INCENTIVES.—

''(1) IN GENERAL.—The Secretary may develop and implement incentives to accelerate the deployment of ITS technologies and services within all programs receiving amounts appropriated pursuant to section 35009 of the Research and Innovative Technology Administration Reauthorization Act of 2012.

''(2) COMPREHENSIVE PLAN.—The Secretary shall develop a detailed and comprehensive plan to carry out this subsection that addresses how incentives may be adopted, as appropriate, through the existing deployment activities carried out by surface transportation modal administrations.''.

SEC. 35009. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), under the conditions set forth in subsection (b)—

(1) $27,297,000 for fiscal year 2012; and

(2) $27,597,000 for fiscal year 2013.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts appropriated pursuant to subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(2) FEDERAL SHARE.—The Federal share of the cost of a project or activity carried out with amounts appropriated pursuant to subsection (a) shall be 50 percent unless another percentage is—

(A) expressly provided under this Act or the amendments made by this Act; or

(B) determined by the Secretary.

(3) AVAILABILITY; TRANSFERABILITY.—Amounts appropriated pursuant to subsection (a) shall remain available until expended and shall not be transferable.

TITLE VI—NATIONAL RAIL SYSTEM PRESERVATION, EXPANSION, AND DEVELOPMENT ACT OF 2012

SEC. 36001. SHORT TITLE.

This title may be cited as the ''National Rail System Preservation, Expansion, and Development Act of 2012''.

SEC. 36002. REFERENCES TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

Subtitle A—Federal and State Roles in Rail Planning and Development Tools

SEC. 36101. RAIL PLANS.

(a) LONG-RANGE NATIONAL RAIL PLAN.—Section 103 is amended by amending subsection (j)(2) to read as follows:

''(2) in coordination with the Secretary of Transportation, develop and routinely update a long-range national rail plan pursuant to chapter 227;''.

(b) NATIONAL RAIL PLAN.—Chapter 227 is amended to read as follows:

''§ 22701. National Rail Plan

''(a) IN GENERAL.—The Secretary of Transportation shall—

''(1) not later than 1 year after the date of enactment of the —

''(A) develop a long-range national rail plan—

''(i) in coordination with the Administrator of the Federal Railroad Administration and the Surface Transportation Board; and

''(ii) in consultation with Amtrak, freight railroads, nonprofit employee labor organizations, and other rail industry stakeholders; and

''(B) submit the national rail plan under subparagraph (A) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives;

''(2) routinely update the national rail plan—

''(A) in coordination with the Administrator of the Federal Railroad Administration and the Surface Transportation Board; and

''(B) in consultation with Amtrak, freight railroads, nonprofit employee labor organizations, and other rail industry stakeholders; and

''(3) submit the updated national rail plan under paragraph (2) at the same time as the President's budget submission.

''(b) NATIONAL RAIL PLAN.—The national rail plan shall—

''(1) be subject to refinement by regional and State rail plans;

''(2) be consistent with the rail needs of the Nation and Federal surface transportation or multi-modal policies and plans, as determined by the Secretary;

''(3) promote an integrated, cohesive, safe, efficient, and optimized national rail system for the movement of goods and people and to support the national economy and other national needs; and

''(4) contain a specific national intercity passenger rail development plan and a freight rail plan that are consistent with other Federal strategy, planning, and investment efforts.

''(c) OBJECTIVES.—The objectives of the national rail plan are—

''(1) to implement a national policy and strategy to support, preserve, improve, and further develop existing and future high-speed and intercity passenger rail transportation and freight rail transportation; and

''(2) to provide a national framework to be refined and implemented by regional rail plans under section 22702 and State rail plans under 22703.

''(d) CONTENTS.—The national rail plan shall include—

''(1) the conditions under which Federal investments in intercity passenger rail and freight rail are justified, including consideration of—

''(A) population size and density;

''(B) projected population and economic growth and changing demographic characteristics;

''(C) connections to local rail and bus transit, alternative transportation options, and multi-modal freight transportation nodes;

''(D) economic profile of specific markets;

''(E) congestion on existing transportation facilities and constraints on future capacity enhancements, in relation to efficient movement of both goods and people;

''(F) distances between markets;

''(G) geographic characteristics;

''(H) demand for present and future freight rail transportation services;

''(I) ability to serve underserved communities and enhance intra-and inter-regional connectivity of mega-regions;

''(J) transportation safety data and analyses;

''(K) travel market size; and

''(L) availability and quality of service from other transportation modes within a market;

''(2) a national map with a prioritized designation of existing and developing markets to be served by specific rail routes and services that meet the criteria described in paragraph (1);

''(3) defined corridor and service categories, including—

''(A) services to be offered;

''(B) peak or average speeds to be achieved;

''(C) frequencies to be offered; and

''(D) populations to be served;

''(4) a schedule and strategy for the phased implementation of corridors and services identified in the plan;

''(5) a discussion of benefits and costs of potential investments in high-speed or intercity passenger rail or freight rail that considers all system user and public benefits and costs from a network perspective, including factors such as potential ridership, travel time reductions and improved reliability, benefits of enhanced mobility of goods and people, environmental benefits, economic development benefits, and other public benefits;

''(6) a strategy for investments in passenger stations, including investment in intermodal stations that are linked to local public transportation, other intercity transportation modes, and non-motorized transportation options, and that connect residential areas, commercial areas, and other nearby transportation facilities that support intercity passenger rail and high-speed rail service, and in freight-related facilities, that is consistent with other Federal strategy, planning, and investment efforts;

''(7) performance standards for fiscal and operational performance of new and enhanced high-speed and intercity passenger rail services;

''(8) analysis of the environmental impacts of the national rail plan;

''(9) recommendations for project financing, management and implementation for corridor development, station development, freight capacity development, and similar projects;

''(10) recommendations for the integration of freight and passenger service in a manner that provides for mutual and complementary growth;

''(11) a plan for integrating any proposed new services with existing services;

''(12) service design and project execution protocols, including design and construction standards, requirements needed to ensure interoperability, and any other protocols the Secretary deems appropriate; and

''(13) additional factors that the Secretary deems relevant.

''§ 22702. Regional rail plans

''(a) IN GENERAL.—The Secretary shall—

''(1) develop a regional rail plan for each region, except the Northeast Corridor, that contains a detailed plan for implementing the national rail plan, including any plans for public investment in projects that contribute to efficient movement and increased capacity for freight by—

''(A) regional rail authorities, as defined by the Secretary; or

''(B) any 2 or more States that have entered into interstate compacts, agreements, or organizations for the purpose of developing such plans; and

''(2) in developing each regional rail plan, coordinate with—

''(A) States;

''(B) local communities;

''(C) railroad infrastructure owners;

''(D) regional air quality planning agencies;

''(E) Amtrak;

''(F) passenger rail service operators;

''(G) freight railroad operators;

''(H) metropolitan planning organizations;

''(I) governing authorities for transit systems or airports;

''(J) tribal governments;

''(K) the general public, including low-income and minority populations, people with disabilities, and older Americans; and

''(L) non-profit labor employee organizations.

''(b) PURPOSES.—The purposes of a regional rail plan shall be to refine and advance the implementation of the national rail plan under section 22701.

''(c) CONTENTS.—A regional rail plan shall include—

''(1) a map—

''(A) that indicates detailed alignment alternatives for any new corridor identified in the national rail plan under section 22701; and

''(B) that identifies the location of each potential new station;

''(2) a phasing plan for developing or upgrading specific segments of the regional network;

''(3) the identification of any environmental impact analyses required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other laws (including regulations);

''(4) a full capital cost estimate for developing the regional network;

''(5) an analysis of operating financial forecasts;

''(6) a benefit-cost analysis for the regional network that considers both user and public benefits and the costs from a network perspective, including factors such as ridership projections, travel time reductions, enhanced mobility benefits, environmental benefits, economic benefits, and other public benefits;

''(7) an analysis of potential land use policies and strategies for areas near high-speed and intercity passenger rail stations;

''(8) potential non-Federal funding sources, including a detailed consideration of anticipated private sector participation;

''(9) a proposal for the institutional and governance structures that will be necessary to develop the regional network;

''(10) other project implementation considerations, including an analysis of the readiness of specific corridors to proceed for development;

''(11) an examination of multi-modal connections that considers the most cost-effective means for achieving the region's transportation goals and objectives;

''(12) identification of plans for cost-effective, public investment in intercity passenger rail projects that contribute toward the efficient movement and increased capacity for freight rail operations;

''(13) a list of capital projects needed to implement a region's portion of the national rail plan;

''(14) a plan for coordinating service and capital projects with adjacent regions;

''(15) a plan for crossing international borders, as appropriate;

''(16) a plan for integrating any proposed new services with existing service; and

''(17) a description of how the regional rail plan refines and advances the implementation of the national rail plan.

''(d) UPDATES.—Not later than 1 year after the publication of the national rail plan under section 22701 and periodically thereafter, the Secretary shall update each regional rail plan—

''(1) to reflect any material changes to the contents under subsection (c); and

''(2) to include any changes made to the national rail plan under section 22701.

''(e) WAIVER.—The Secretary may waive a content requirement under subsection (c) as necessary to accommodate a unique characteristic or situation in a region.

''§ 22703. State rail plans

''(a) IN GENERAL.—A State may prepare and maintain a State rail plan. A State rail plan shall—

''(1) be consistent with the national rail plan under section 22701;

''(2) be consistent with the regional rail plans under section 22702;

''(3) coordinate with other State transportation planning goals and programs, including the statewide transportation plans under section 135 of title 23, and

''(4) set forth rail transportation's role within the State's transportation system.

''(b) PURPOSES.—The purposes of a State rail plan shall be to refine and advance the implementation of the national rail plan and relevant regional rail plan under sections 22701 and 22702.

''(c) OBJECTIVES.—The objectives of a State rail plan shall be—

''(1) to set forth the State's policy on freight and intercity passenger rail transportation, including commuter rail operations, within the State;

''(2) to establish the time period covered by the State rail plan;

''(3) to present the priorities and strategies to enhance rail service within the State that benefits the public; and

''(4) to serve as the basis for Federal and State rail investments within the State.

''(d) REQUIREMENTS.—

''(1) ESTABLISHMENT.—The Secretary shall establish minimum requirements, consistent with sections 22701 and 22702, for the preparation and periodic revision of a State rail plan, including—

''(A) the establishment or designation of a State rail transportation authority to prepare, maintain, coordinate, and administer the State rail plan;

''(B) the establishment or designation of a State approval authority to approve the State rail plan;

''(C) the submission of the State's approved State rail plan to the Secretary for review and approval; and

''(D) the revision and resubmittal of a State-approved State rail plan for review and approval by the Secretary not less than once every 5 years.

''(2) REVIEW.—The Secretary shall prescribe procedures for a State to submit a State rail plan for review and approval, including standardized format and data requirements.

''(3) COMPLIANCE.—The Secretary shall deem a State rail plan to be in compliance with this chapter if the State rail plan—

''(A) is completed before the date of enactment of the ; and

''(B) substantially meets the requirements of chapter 227 as in effect on the day before the date of enactment of .

''(4) UPDATES.—A State rail plan that is deemed in compliance under paragraph (3) shall be updated not later than 1 year after the date of enactment of the .

''(e) CONTENTS.—A State rail plan shall include—

''(1) an inventory of the existing overall rail transportation system and rail services and facilities within the State;

''(2) an analysis of the role of rail transportation within the State's surface transportation system;

''(3) a review of all rail lines within the State, including any proposed high-speed rail corridors and significant rail line segments not currently in service;

''(4) a statement of the State's passenger rail service objectives, including minimum service levels, for rail transportation routes within the State;

''(5) a general analysis of rail's transportation, economic, and environmental impacts within the State, including congestion mitigation, trade and economic development, air quality, land-use, energy-use, and community impacts;

''(6) a long-range rail service and investment program for current and future freight and intercity passenger infrastructure within the State that meets the requirements under subsection (f);

''(7) a statement of the public financing issues for rail projects or service within the State, including a list of current and prospective public capital and operating funding resources, public subsidies, State taxation, and other financial policies relating to rail infrastructure development;

''(8) the identification of rail infrastructure issues within the State, after consulting with relevant stakeholders;

''(9) a review of major passenger and freight intermodal rail connections and facilities within the State, including seaports;

''(10) a list of prioritized options to maximize service integration and efficiency between rail and other modes of transportation within the State;

''(11) a review of publicly funded projects within the State to improve rail transportation safety and security, including major projects funded under section 130 of title 23;

''(12) a performance evaluation of passenger rail services operating in the State, including possible improvements to those services and a description of strategies to achieve the improvements;

''(13) a compilation of studies and reports on high-speed rail corridor development within the State that were not included in a prior plan under this chapter;

''(14) a plan for funding any recommended development of a high-speed rail corridor within the State; and

''(15) a statement that the State is in compliance with the requirements of section 22102.

''(f) LONG-RANGE RAIL SERVICE AND INVESTMENT PROGRAM.—

''(1) CONTENTS.—A long-range rail service and investment program under subsection (e)(6) shall include—

''(A) a prioritized list of any freight or intercity passenger rail capital projects expected to be commenced or supported in whole or in part by the State; and

''(B) a detailed capital and operating funding plan for each rail capital project under subparagraph (A).

''(2) RAIL CAPITAL PROJECTS LIST.—

''(A) CONTENTS.—A list of rail capital projects under paragraph (1)(A) shall include—

''(i) a description of the anticipated public and private benefits of each rail capital project; and

''(ii) a statement of the correlation between—

''(I) public funding contributions for each rail capital project; and

''(II) the public benefits.

''(B) CONSIDERATIONS.—A State rail transportation authority shall consider, when preparing a list of rail capital projects under this subsection—

''(i) contributions made by non-Federal and non-State sources through user fees, matching funds, or other private capital involvement;

''(ii) rail capacity and congestion effects;

''(iii) effects on highway, aviation, and maritime capacity, congestion, and safety;

''(iv) regional balance;

''(v) environmental impact;

''(vi) economic and employment impacts; and

''(vii) projected ridership and other service measures for passenger rail projects.

''(g) A State shall not be eligible to receive financial assistance under chapter 244 or 261 unless the State completes a State rail plan pursuant to this section.

''§ 22704. Transparency and coordination

''(a) PREPARATION AND REVIEW.—

''(1) FEDERAL TRANSPARENCY.—The Secretary of Transportation shall provide adequate and reasonable notice and an opportunity for comment to the public, rail carriers, commuter and transit authorities (operating in or affected by rail operations within the region or State), units of local government, and other interested parties when the Secretary prepares or reviews the national rail plan under section 22701 or a regional rail plan under section 22702.

''(2) STATE TRANSPARENCY.—A State shall provide adequate and reasonable notice and an opportunity for comment to the public, rail carriers, commuter and transit authorities (operating in or affected by rail operations within the region or the State), units of local government, and other interested parties, when the State prepares or reviews a State rail plan under section 22703.

''(b) INTERGOVERNMENTAL COORDINATION.—A State shall—

''(1) review the freight and passenger rail service activities and initiatives by regional planning agencies, regional transportation authorities, and municipalities (within the State or within the region in which the State is located) when preparing a State rail plan; and

''(2) include any recommendations made by the regional planning agencies, regional transportation authorities, and municipalities (within the State or within the region in which the State is located), as deemed appropriate by the State.

''§ 22705. Definitions

''In this chapter:

''(1) PRIVATE BENEFIT.—The term 'private benefit' means a benefit—

''(A) that is determined on a project-by-project basis, based upon an agreement between the parties;

''(B) that is accrued to a person or private entity, other than Amtrak, that directly improves the economic and competitive condition of the person or private entity through improved assets, cost reductions, service improvements, or other means as defined by the Secretary; or

''(C) that is defined by the Secretary, with advice from the States and rail carriers if the Secretary deems such advice necessary.

''(2) PUBLIC BENEFIT.—The term 'public benefit' means a benefit—

''(A) that is determined on a project-by-project basis, based upon an agreement between the parties;

''(B) that is accrued to the public, including Amtrak, in the form of enhanced mobility of people or goods, environmental protection or enhancement, congestion mitigation, enhanced trade and economic development, improved air quality or land use, more efficient energy use, enhanced public safety or security, reduction of public expenditures due to improved transportation efficiency or infrastructure preservation, and any other positive community effects as defined by the Secretary; or

''(C) that is defined by the Secretary, with advice from the States and rail carriers if the Secretary deems such advice necessary.

''(3) STATE.—The term 'State' means any of the 50 States and the District of Columbia.

''(4) STATE RAIL TRANSPORTATION AUTHORITY.—The term 'State rail transportation authority' means the State agency or official responsible under the direction of the Governor of the State or a State law for the preparation, maintenance, coordination, and administration of the State rail plan.''.

SEC. 36102. IMPROVED DATA ON DELAY.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, in coordination with Amtrak, freight railroads, and other parties, as appropriate, shall develop guidance for developing improved, including automated, means of measuring on-time performance delays.

SEC. 36103. DATA AND MODELING.

(a) DATA.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct a data needs assessment, in consultation with the Surface Transportation Board, Amtrak, freight railroads, and State and local governments, to support the development of an efficient and effective intercity passenger rail network. The data needs assessment shall, among other things—

(1) identify the data needed to conduct cost-effective modeling and analysis for high-speed and intercity passenger rail development programs;

(2) determine limitations to the data used for inputs and develop a strategy to address the limitations;

(3) identify barriers to accessing existing data;

(4) include recommendations regarding whether the authorization of additional data collection for intercity passenger rail travel is warranted; and

(5) determine which entities will be responsible for generating or collecting needed data.

(b) MODELING.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall develop or improve modeling capabilities to support the development of an efficient and effective intercity passenger rail network, including service development, capacity expansion, cost-effectiveness, and ridership estimates.

(c) BENEFIT-COST ANALYSIS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall enhance the usefulness of assessments of benefits and costs, for both intercity passenger rail and freight rail projects by—

(1) providing ongoing guidance and training on developing benefit and cost information for rail projects;

(2) providing more direct and consistent requirements for assessing benefits and costs across transportation funding programs, including the appropriate use of discount rates;

(3) requiring an applicant to clearly communicate the methodology that is used to calculate the project benefits and costs, including information on assumptions underlying calculations, strengths and limitations of data used, and the level of uncertainty in estimates of project benefits and costs; and

(4) ensuring that an applicant receives clear and consistent guidance on values to apply for key assumptions used to estimate potential project benefits and costs.

(d) CONFIDENTIAL DATA.—For the purposes of this section, the Secretary of Transportation shall protect any confidential data from public disclosure and such confidential data shall only be provided on the basis of a voluntary agreement.

SEC. 36104. SHARED-USE CORRIDOR STUDY.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a shared-use corridor study, in consultation with the Surface Transportation Board, Amtrak, freight railroads, States, non-profit employee labor organizations, and other users of the rail system, as appropriate, to evaluate the best means to enhance and support the further development of high-speed and intercity passenger rail service within United States shared-use corridors.

(b) CONTENTS.—In conducting the shared-use corridor study, the Secretary shall—

(1) survey the access arrangements for high-speed and intercity passenger rail service for use of rail infrastructure, assets and facilities owned by freight railroads, commuter authorities, or other entities, and standard processes for the resolution of disputes relating to such access;

(2) evaluate the roles and responsibilities of high-speed and intercity passenger rail, freight rail, and commuter rail service providers and infrastructure owners in complying with Federal, State, and local applicable requirements within United States shared-use corridors;

(3) evaluate the roles and responsibilities of Federal, State, and local governments, infrastructure owners, and high speed and intercity passenger rail, freight rail, and commuter rail service providers in supporting both the preservation and expansion of high-speed and intercity passenger rail service, freight transportation, and commuter transportation on shared infrastructure or rights-of-way;

(4) evaluate the roles and responsibilities of high-speed and intercity passenger rail, freight rail, and commuter rail service providers in achieving satisfactory on time performance for passenger and freight rail services in shared use corridors; and

(5) evaluate other issues identified by the Secretary.

(c) REPORT.—Not later than 90 days after the date the shared-use corridor study is completed under subsection (a), the Secretary shall—

(1) report the results of the shared-use corridor study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure; and

(2) make the shared-use corridor study available to the public on the Department of Transportation's website.

SEC. 36105. COOPERATIVE EQUIPMENT POOL.

(a) IN GENERAL.—The Next Generation Corridor Equipment Pool Committee established under section 305 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note) shall continue to implement its authorized functions, as appropriate, and shall maintain and update, as needed, the specifications created by the Committee.

(b) EQUIPMENT POOLING ENTITY.—Section 305 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), is amended by adding at the end the following:

''(f) EQUIPMENT POOLING ENTITY.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the , the Committee shall create an equipment pooling entity that includes—

''(A) Amtrak;

''(B) States that purchase, with Federal funds, intercity passenger rail rolling stock and equipment that is built in accordance with the specifications created by the Next Generation Corridor Equipment Pool Committee; and

''(C) other States and entities, as appropriate.

''(2) IN GENERAL.—The equipment pooling entity—

''(A) may—

''(i) be a corporation or other cooperative entity; and

''(ii) be owned or jointly-owned by Amtrak, a participating State, or other entity; and

''(B) shall be authorized to—

''(i) lease or acquire intercity passenger rail rolling stock and equipment used in State-supported corridor services on routes that are not more than 750 miles between end points, including by entering into agreements for the funding, financing, procurement, remanufacture, ownership, and disposal of the intercity passenger rail rolling stock and equipment;

''(ii) maintain, manage, and allocate intercity passenger rail rolling stock and equipment for use in State-supported corridor services, including by charging appropriate amounts for the use (including depreciation and financing costs) of the intercity passenger rail rolling stock and equipment; and

''(iii) ensure adequate quantity and quality of appropriate intercity passenger rail rolling stock and equipment to support the State-supported corridor services' needs as identified in the national rail plan, regional rail plans, or State rail plans under chapter 227.

''(3) TRANSFER OF EQUIPMENT.—Amtrak, after consultation with the Secretary, may sell, lease, or otherwise transfer equipment currently owned or leased by Amtrak to the equipment pooling entity. The operation and utilization of any equipment transferred to the equipment pooling entity shall be covered by section 24405(b).

''(4) TRANSFER REQUIREMENT.—A State shall sell, lease, or otherwise transfer equipment built in accordance with the specifications created by the Next Generation Corridor Equipment Pool Committee and purchased with Federal funds to the equipment pooling entity unless the Secretary exempts a State from this requirement.

''(g) GRANT FUNDING.—A capital project to carry out this section shall be eligible for grants under chapter 244. The equipment pooling entity shall be an eligible grant recipient under chapter 244.''.

SEC. 36106. PROJECT MANAGEMENT OVERSIGHT AND PLANNING.

Section 101(d) of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4908) is amended—

(1) by striking ''½ of''; and

(2) by inserting ''and joint capital planning'' after ''oversight''.

SEC. 36107. IMPROVEMENTS TO THE CAPITAL ASSISTANCE PROGRAMS.

(a) AMENDMENTS TO CHAPTER 244.—Chapter 244 is amended—

(1) in section 24401(1)—

(A) by striking ''or'' the first place it appears; and

(B) by striking ''service.'' and inserting ''service, or Amtrak.'';

(2) by amending section 24402(b) to read as follows:

''(b) PROJECT AS PART OF THE NATIONAL RAIL PLAN, REGIONAL RAIL PLANS, OR STATE RAIL PLANS.—

''(1) GRANT APPROVAL.—The Secretary may not approve a grant for a project under this section unless the Secretary finds that—

''(A) the project is part of the national rail plan, a regional rail plan, or a State rail plan under chapter 227; or

''(B) the project is part of the capital spending plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note); and

''(C) the applicant or recipient has or will have directly or through appropriate agreements with other entities, as approved by the Secretary—

''(i) the legal, financial, and technical capacity to carry out the project;

''(ii) satisfactory continuing control over the use of the equipment or facilities; and

''(iii) the capability and willingness to maintain the equipment or facilities.

''(2) PROVISION OF INFORMATION.—An applicant or recipient shall provide sufficient information for the Secretary to make the required findings under this subsection.

''(3) JUSTIFICATION.—An applicant or recipient, except for Amtrak, that did not select the proposed operator of its service competitively shall provide written justification to the Secretary substantiating—

''(A) why the proposed operator is the best, taking into account price and other factors; and

''(B) that the use of the proposed operator will not unnecessarily increase the cost of the project.'';

(3) in section 24402(c)—

(A) by amending paragraph (1)(A) to read as follows:

''(1) that the project be part of the national rail plan, a regional rail plan, or a State rail plan under chapter 227, or the capital spending plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);'';

(B) in paragraph (1)(D), by inserting '', except for Amtrak,'' after ''an applicant'';

(C) by amending paragraph (1)(F) to read as follows:

''(F) that each project be compatible with and operate in conformance with plans developed pursuant to the requirements of section 135 of title 23, United States Code;'';

(D) in paragraph (2)(C), by striking ''and'';

(E) in paragraph (3)(B)(iii), by striking the period and inserting ''; and''; and

(F) by adding at the end the following:

''(4) achieve the appropriate mix of projects selected for funding to ensure the advancement of the national rail plan, including both the development of new or expanded routes and services and the maintenance and improvement of the current rail system.'';

(4) by amending section 24402(d) to read as follows:

''(d) STATE RAIL PLANS.—State rail plans completed before the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) that substantially meet the requirements of chapter 227 as in effect on the day before the date of enactment of the , shall be deemed by the Secretary to have met the requirements of subsection (c)(1)(A) of this section.'';

(5) by amending section 24402(e) to read as follows:

''(e) PROJECT TRANSFERS.—The Secretary may permit a recipient under this section to enter into a cooperative agreement to transfer the grant and related responsibilities and requirements to Amtrak to expedite, enhance, or otherwise facilitate the completion of the project and any such transfer shall be subject to the requirements of this chapter.'';

(6) in the heading of section 24402(f), by striking ''AND EARLY SYSTEMS WORK AGREEMENTS'';

(7) by amending section 24402(f)(1) to read as follows:

''(1) In implementing this section, the Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.'';

(8) in section 24402(g) by—

(A) amending paragraph (1)(B) to read as follows:

''(B) A grant—

''(i) for a project designated as part of a priority corridor or service by the national rail plan and scheduled within the national rail plan to be implemented within a time frame consistent with the grant application shall not exceed 80 percent of the project net capital cost;

''(ii) for a project to implement a performance improvement plan under section 24710 shall not exceed 100 percent of the net project capital cost; and

''(iii) for any other project shall not exceed 50 percent of the net project capital cost.''; and

(B) by adding at the end the following:

''(5) When Amtrak is an applicant under this chapter, it may use ticket and other revenues generated from its operations and other sources to satisfy the non-Federal share requirements under this subsection, except that Amtrak may not use Federal funds authorized under subsections (a) or (c) of section 101 of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4908).'';

(9) in section 24402(h), by striking ''2'' each place it appears and inserting ''3'';

(10) in section 24402(i)(1), by striking ''A metropolitan planning organization, State transportation department, or other project sponsor'' and inserting ''An applicant'';

(11) by amending section 24402(k) to read as follows:

''(k) SMALL CAPITAL PROJECTS.—The Secretary shall make not less than 5 percent annually available from the amounts appropriated under section 24406 beginning in fiscal year 2009 for grants for capital projects eligible under this section not exceeding $10,000,000, including costs eligible under section 209(d) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note). For grants awarded under this subsection, the Secretary may waive one or more of the requirements of this section, including State rail plan requirements, or of section 24405(c)(1)(B), as appropriate.'';

(12) by amending section 24403(b) to read as follows:

''(b) SECRETARIAL OVERSIGHT AND PARTICIPATION.—

''(1) The Secretary may use not more than 1 percent of amounts made available in a fiscal year for capital projects under this chapter to participate in the planning, management, and oversight of the development and implementation of any such projects.

''(2) The Secretary may use amounts available under paragraph (1) to directly undertake or make contracts for project planning and design participation or safety, procurement, management, and financial compliance reviews and audits of a recipient of grants awarded under this chapter.

''(3) The Federal Government shall pay the entire cost of carrying out a contract under this subsection.''; and

(13) in section 24405 by adding ''or between Amtrak and the railroad'' after ''railroad'' in subsection (c)(1).

(b) CHAPTER 244 GRANT PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall issue a final rule establishing grant procedures, as required by section 24402(a) of title 49, United States Code.

(c) AMENDMENTS TO CHAPTER 261.—Chapter 261 is amended—

(1) in section 26106—

(A) by amending subsection (a) to read as follows:

''(a) IN GENERAL.—The Secretary of Transportation shall establish and implement a high-speed rail corridor program consistent with the national rail plan, regional rail plans, and State rail plans required by chapter 227 of title 49, United States Code.'';

(B) by amending subsection (b)(2) to read as follows:

''(2) CORRIDOR.—The term 'corridor' means—

''(A) a corridor designated by the Secretary pursuant to section 104(d)(2) of title 23; or

''(B) a corridor expected to achieve high-speed service pursuant to section 22701 of title 49.'';

(C) in subsection (e)(2)(A)—

(i) in clause (ii), by inserting '', directly or through appropriate agreements with other entities,'' after ''have'';

(ii) in clause (v), by inserting '', except for Amtrak,'' after ''applicant'';

(iii) in clause (vi), by striking ''; and'' and inserting a semicolon;

(iv) in clause (vii)(II), by striking ''(if it is available)''; and

(v) by adding at the end the following:

''(viii) that the project and the high-speed rail services it supports are coordinated and integrated with existing and planned conventional intercity passenger rail services;

''(ix) that the Secretary, and Amtrak at the Secretary's request, are permitted to participate in the planning, design, management, and delivery of the project, as necessary to ensure project success and promote interstate commerce; and

''(x) that the Federal government is accorded an appropriate participation, oversight, ownership, or control in the project commensurate with the level of Federal investment as determined by the Secretary;''; and

(D) in subsection (e)(4), by striking ''pursuant to section 22506 of this title''.

(d) CONGESTION GRANTS.—Section 24105 is amended—

(1) in subsection (a)—

(A) by striking ''in cooperation with States'' and ''high priority rail corridor'';

(B) by striking ''congestion'' and inserting ''freight or commuter railroad congestion that impacts intercity passenger trains, enhance route performance, preserve service,''; and

(C) by striking the period and inserting ''on routes defined under section 24102(5)(C).'';

(2) in subsection (b)—

(A) by inserting ''or the Federal Railroad Administration'' after ''Amtrak'';

(B) by striking ''congestion'' and inserting ''freight or commuter railroad congestion that impacts intercity passenger trains, enhance route performance, preserve service,'';

(C) by striking ''; and'' and inserting a period; and

(D) by striking paragraph (3);

(3) in subsection (c), by striking ''80'' and inserting ''100''; and

(4) in subsection (d), by inserting '', except that the Secretary may waive the requirements of section 24405(c)(1)(B), as appropriate, for grants totaling less than $10,000,000'' after ''title''.

(e) ADDITIONAL HIGH-SPEED RAIL PROJECTS.—The Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) is amended by striking section 502.

SEC. 36108. LIABILITY.

(a) CLARIFICATION OF COMMUTER RAIL LIABILITY.—Section 28103 is amended—

(1) in subsection (a)(2), by inserting, '', including commuter rail passengers,'' after ''rail passengers,'';

(2) by amending subsection (b) to read as follows:

''(b) CONTRACTUAL OBLIGATIONS.—A provider of rail passenger transportation may enter into contracts that allocate financial responsibility for claims. Such contracts shall be enforceable notwithstanding any other provision of law, common law, or public policy, or the nature of the conduct giving rise to the damages or liability.''; and

(3) in subsection (e)—

(A) by striking ''and'' at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(C) by adding at the end the following:

''(4) the term 'rail passenger transportation' includes commuter rail transportation.''.

(b) STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall conduct a study regarding options for clarifying and improving passenger rail liability requirements and arrangements, including those related to environmental liability, necessary for supporting the continued development and improvement of the national passenger rail system and the furtherance of the national rail plan under chapter 227 of title 49, United States Code. The study shall consider—

(A) whether to expand statutory liability limits to third parties; and

(B) whether to revise the current statutory liability limits based on inflation or other methods to improve the certainty of liability coverage.

(2) REPORT.—Not later than 90 days after the date of completion of the study, the Secretary shall submit the results of the study and any associated recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 36109. DISADVANTAGED BUSINESS ENTERPRISES.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(2) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632), except the term does not include any concern or group of concerns that—

(A) are controlled by the same socially and economically disadvantaged individual or individuals; and

(B) have average annual gross receipts over the preceding 3 fiscal years in excess of $22,410,000, as adjusted annually by the Secretary for inflation.

(3) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—

(A) IN GENERAL.—

(i) SOCIALLY DISADVANTAGED INDIVIDUALS.—The term ''socially disadvantaged individuals'' has the meaning given the term in section 8(a)(5)of the Small Business Act (15 U.S.C. 637(a)(5)), and relevant subcontracting regulations issued pursuant to that Act.

(ii) ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''economically disadvantaged individuals'' has the meaning given the term in section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)), and relevant subcontracting regulations issued pursuant to that Act.

(B) INCLUSIONS.—For purposes of this section, women shall be presumed to be socially and economically disadvantaged individuals.

(b) IN GENERAL.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under chapter 244, section 24105, or section 26106 of title 49, United States Code, shall be expended through a small business concern owned and controlled by 1 or more socially and economically disadvantaged individuals.

(c) ANNUAL LISTING OF DISADVANTAGED SMALL BUSINESS CONCERNS.—Each State shall annually—

(1) survey each small business concern in the State;

(2) compile a list of all of the small business concerns in the State, including the location of each small business concern in the State; and

(3) notify the Secretary, in writing, of the percentage of the small business concerns that—

(A) are controlled by women;

(B) are controlled by socially and economically disadvantaged individuals (except for women); and

(C) are controlled by individuals who are women and who are socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a small business concern qualifies under this section. The minimum uniform criteria shall include—

(1) an on-site visit;

(2) a personal interview;

(3) a license;

(4) an analysis of stock ownership;

(5) an analysis of bonding capacity;

(6) the listing of equipment;

(7) the listing of work completed; and

(8) a resume of each principal owner, the financial capacity, and the type of work preferred.

(e) REPORTING.—The Secretary shall establish minimum requirements for State governments to use in reporting to the Secretary information concerning disadvantaged business enterprise awards, commitments, and achievements, and such other information as the Secretary determines appropriate for the proper monitoring of the disadvantaged business enterprise program.

(f) COMPLIANCE WITH COURT ORDERS.—Nothing in this section shall limit the eligibility of a person to receive funds made available under chapter 244, section 24105, or section 26106 of title 49, United States Code, if the person is prevented, in whole or in part, from complying with subsection (b) because a Federal court issues a final order in which the court finds that the requirement of subsection (b) or the program established under subsection (b) is unconstitutional.

SEC. 36110. WORKFORCE DEVELOPMENT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall, in consultation with the States, local governments, Amtrak, freight railroad, and non-profit employee labor organizations—

(1) complete a study regarding workforce development needs in the passenger and freight rail industry, including what knowledge and skill gaps in planning, financing, engineering, and operating passenger and freight rail systems exist, to assist in creating programs to help improve the rail industry;

(2) make recommendations based on the results of the study; and

(3) report the findings and recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 36111. VETERANS EMPLOYMENT.

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall—

(1) conduct a study to evaluate the best means for providing a preference to veterans in the awarding of contracts and subcontracts using amounts made available under chapter 244, and sections 24105 and 26104 of title 49, United States Code;

(2) make recommendations based on the results of the study; and

(3) report the findings and recommendations to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Subtitle B—Amtrak

SEC. 36201. STATE-SUPPORTED ROUTES.

(a) GRANT AVAILABILITY.—In addition to the uses permitted under section 209(d) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), a State may use funds provided under section 24406 of title 49, United States Code, to temporarily pay Amtrak some or all of the operating costs for services identified under section

24102(5)(D) of title 49, United States Code, determined under the methodology established pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), that exceed—

(1) the operating costs (adjusted for inflation) that the State paid Amtrak for the same services in the year prior to the implementation of section 209 of that Act; or

(2) if the services were not fully State-supported in that year, the full cost the State would have paid Amtrak under the State-supported service costing methodology then in effect.

(b) TRANSITION ASSISTANCE GUIDANCE.—Not later than 180 days after the Surface Transportation Board determines the appropriate methodology pursuant to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), the Secretary shall develop a transition assistance guidance that includes—

(1) criteria for phasing-out the temporary operating assistance under this section not later than October 1, 2017;

(2) a grant application process that permits—

(A) States to apply for such funds individually or collectively; and

(B) Amtrak to be considered the grant recipient of such funds upon an agreement between a State or States and Amtrak; and

(3) policies governing financial terms, repayment conditions, and other terms of financial assistance.

(c) ELIGIBILITY.—To be eligible for Federal transition assistance, an intercity passenger rail service shall provide high-speed or intercity passenger rail revenue operation on routes that are subject to section 209 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

(d) FEDERAL SHARE.—The Federal share of grants under this paragraph for eligible costs may be up to 100 percent of the total costs under subsection (a).

SEC. 36202. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.

(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.—Section 24905 is amended—

(1) by amending the section heading to read as follows:

"SEC. 24905. NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION IMPROVEMENTS.";

(2) by redesignating subsection (e) as subsection (g);

(3) by striking subsections (a), (b), (c), (d), and (f) and inserting before subsection (g), as redesignated, the following:

''(a) NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—

''(1) IN GENERAL.—The Secretary of Transportation shall establish a Northeast Corridor Infrastructure and Operations Advisory Commission (referred to in this section as the 'Commission') to foster the creation and implementation of a unified, regional, long-term investment strategy for the Northeast Corridor and to promote mutual cooperation and planning pertaining to the capital investment, rail operations and related activities of the Northeast Corridor. The Commission shall be made up of—

''(A) members representing Amtrak;

''(B) members representing the Department of Transportation, including the Federal Railroad Administration and the Office of the Secretary;

''(C) 1 member from each of the States (including the District of Columbia) that constitute the Northeast Corridor as defined in section 24102, designated by, and serving at the pleasure of, the chief executive officer thereof; and

''(D) non-voting representatives of freight railroad carriers using the Northeast Corridor selected by the Secretary.

''(2) MEMBERSHIP.—The Secretary shall ensure that the membership belonging to any of the groups enumerated under paragraph (1) shall not constitute a majority of the Commission's memberships.

''(3) MEETINGS.—The Commission shall—

''(A) establish a schedule and location for convening meetings;

''(B) meet not less than 4 times per fiscal year; and

''(C) develop rules and procedures to govern the Commission's proceedings.

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

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

''(6) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

''(7) PERSONNEL.—The Commission may appoint and fix the pay of such personnel as the Commission considers appropriate.

''(8) DETAILEES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

''(9) ADMINISTRATIVE SUPPORT.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

''(10) CONSULTATION WITH OTHER ENTITIES.—The Commission shall consult with other entities as appropriate.

''(b) STATEMENT OF GOALS AND RECOMMENDATIONS.—

''(1) STATEMENT OF GOALS.—The Commission shall develop a statement of goals concerning the future of Northeast Corridor rail infrastructure and operations based on achieving expanded and improved intercity, commuter, and freight rail services operating with greater safety and reliability, reduced travel times, increased frequencies, and enhanced intermodal connections designed to address airport and highway congestion, reduce transportation energy consumption, improve air quality, and increase economic development of the Northeast Corridor region.

''(2) RECOMMENDATIONS.—The Commission shall develop recommendations based on the statement of goals developed under this section addressing, as appropriate—

''(A) short-term and long-term capital investment needs beyond those specified in the state-of-good-repair plan under section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note);

''(B) future funding requirements for capital improvements and maintenance;

''(C) operational improvements of intercity passenger rail, commuter rail, and freight rail services;

''(D) opportunities for additional non-rail uses of the Northeast Corridor;

''(E) scheduling and dispatching;

''(F) safety and security enhancements;

''(G) equipment design;

''(H) marketing of rail services;

''(I) future capacity requirements; and

''(J) potential funding and financing mechanisms for projects of corridor-wide significance.

''(c) NORTHEAST CORRIDOR HIGH SPEED AND INTERCITY SERVICE DEVELOPMENT PLAN.—

''(1) LONG-RANGE NORTHEAST CORRIDOR SERVICE DEVELOPMENT PLAN.—The Federal Railroad Administration, in coordination with the Commission, Amtrak, the States, and other corridor users, shall complete a long-range Northeast Corridor Service Development Plan not later than December 31, 2014.

''(2) COLLABORATION AND COOPERATION.—The parties comprising the Commission, acting separately and collectively, shall collaborate and cooperate to the maximum extent permitted by law in—

''(A) the preparation of the service development plan;

''(B) the programmatic environmental review process; and

''(C) the subsequent requirements required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the development of supporting documentation.

''(d) COMPREHENSIVE LONG-RANGE NORTHEAST CORRIDOR STRATEGY.—

''(1) IN GENERAL.—Not later than 1 year after completion of the service development plan under subsection (c), the Commission shall develop a comprehensive long-range strategy for the future high-speed, intercity, commuter, and freight rail utilization of the Northeast Corridor that considers—

''(A) the statement of goals developed under subsection (b)(1);

''(B) the recommendations developed under subsection (b)(2);

''(C) the economic development report under subsection (h);

''(D) the service development plan and related alternatives developed through the programmatic environmental review for the Northeast Corridor;

''(E) the capital and operating plans of all entities operating on the Northeast Corridor;

''(F) improvement programs and service initiatives planned by corridor owners and users;

''(G) relevant local, State, and Federal transportation plans; and

''(H) other plans, as appropriate.

''(2) STRATEGY COMPONENTS.—The comprehensive long-range strategy shall include—

''(A) a comprehensive program containing a description and the planned phasing of all Northeast Corridor improvement programs, investments, and other anticipated changes;

''(B) the impacts of the comprehensive program on:

''(i) highway and aviation congestion;

''(ii) economic development;

''(iii) job creation; and

''(iv) the environment;

''(C) the potential financing sources for the comprehensive program, including Federal, State, local, and private sector sources;

''(D) new institutional or other structures necessary to implement the comprehensive program;

''(E) the types of collaboration, participation, arrangements, and support between Amtrak and the Federal Government, the State and local governments in the Northeast Corridor, the commuter rail authorities and freight railroads that utilize the Northeast Corridor, the private sector, and others, as appropriate, that are necessary to achieve the comprehensive program; and

''(F) any regulatory or statutory changes necessary to efficiently advance the comprehensive program.

''(e) ACCESS COSTS.—

''(1) DEVELOPMENT OF STANDARDIZED FORMULA.—Not later than September 30, 2013, the Commission shall—

''(A) develop a standardized formula for determining and allocating costs, revenues, and compensation for Northeast Corridor commuter rail passenger transportation (as defined in section 24102) on the Northeast

Corridor main line between Boston, Massachusetts, and Washington, District of Columbia, and the Northeast Corridor branch lines connecting to Harrisburg, Pennsylvania, Springfield, Massachusetts, and Spuyten Duyvil, New York, that use Amtrak facilities or services or that provide such facilities or services to Amtrak that ensures that—

''(i) there is no cross-subsidization of commuter rail passenger, intercity rail passenger, or freight rail transportation;

''(ii) each service is assigned the costs incurred only for the benefit of that service, and a proportionate share, based upon factors that reasonably reflect relative use, of costs incurred for the common benefit of more than 1 service; and

''(iii) all financial contributions made by an operator of a service that benefit an infrastructure owner other than the operator are considered, including any capital infrastructure investments and in-kind services;

''(B) develop a proposed timetable for implementing the formula not later than December 31, 2014;

''(C) transmit the proposed timetable to the Surface Transportation Board; and

''(D) at the request of a Commission member, petition the Surface Transportation Board to appoint a mediator to assist the Commission members through non-binding mediation to reach an agreement under this section.

''(2) IMPLEMENTATION.—Amtrak and public authorities providing commuter rail passenger transportation on the Northeast Corridor shall implement new agreements for usage of facilities or services based on the standardized formula under paragraph (1) in accordance with the timetable established therein. If the entities fail to implement the new agreements in accordance with the timetable, the Commission shall petition the Surface Transportation Board to determine the appropriate compensation amounts for such services under section 24904(c). The Surface Transportation Board shall enforce its determination on the party or parties involved.

''(3) REVISIONS.—The Commission may make necessary revisions to the standardized formula developed under paragraph (1), including revisions based on Amtrak's financial accounting system developed under section 203 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note).

''(f) TRANSMISSION OF STATEMENT OF GOALS, RECOMMENDATIONS, AND PLANS.—The Commission shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

''(1) not later than 60 days after the date of enactment of the , the statement of goals under subsection (b);

''(2) annually beginning on December 31, 2012, the recommendations under subsection (b)(2) and the standardized formula and timetable under subsection (e)(1); and

''(3) the comprehensive long-range strategy under this section.''.; and

(4) by inserting after subsection (g), as redesignated, the following

''(h) REPORT ON NORTHEAST CORRIDOR ECONOMIC DEVELOPMENT.—Not later than September 30, 2013, the Commission shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the role of Amtrak's Northeast Corridor service between Washington, District of Columbia, and Boston, Massachusetts, in the economic development of the Northeast Corridor region. The report shall examine how to enhance the utilization of the Northeast Corridor for greater economic development, including—

''(1) improving real estate utilization;

''(2) improved intercity, commuter, and freight services; and

''(3) improving optimum utility utilization.

''(i) NORTHEAST CORRIDOR SAFETY COMMITTEE.—

''(1) IN GENERAL.—The Secretary shall establish a Northeast Corridor Safety Committee composed of members appointed by the Secretary. The members shall be representatives of—

''(A) the Department of Transportation, including the Federal Railroad Administration;

''(B) Amtrak;

''(C) freight carriers operating more than 150,000 train miles a year on the main line of the Northeast Corridor;

''(D) commuter rail agencies;

''(E) rail passengers;

''(F) rail labor; and

''(G) other individuals and organizations the Secretary decides have a significant interest in rail safety or security.

''(2) FUNCTION; MEETINGS.—The Secretary shall consult with the Committee about safety and security improvements on the Northeast Corridor main line. The Committee shall meet not less than 2 times per year to consider safety and security matters on the main line.

''(3) REPORT.—At the beginning of the first session of each Congress, the Secretary shall submit a report to the Commission and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the status of efforts to improve safety and security on the Northeast Corridor main line. The report shall include the safety and security recommendations of the Committee and the comments of the Secretary on those recommendations.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 249 is amended by striking the item relating to section 24905 and inserting the following:

''24905. Northeast corridor infrastructure and operations advisory commission improvements.''.

SEC. 36203. NORTHEAST CORRIDOR HIGH-SPEED RAIL IMPROVEMENT PLAN.

(a) PLANS.—Not later than 180 days after the date of enactment of this Act, Amtrak shall—

(1) complete a refined vision for an integrated program of improvements on the Northeast Corridor that will result in, by 2040—

(A) the development and operation of a new high-speed rail system capable of high capacity, 200 mile-per-hour or greater operation between Washington, District of Columbia and Boston, Massachusetts;

(B) the completion of the improvements identified in the Northeast Corridor Infrastructure Master Plan published by Amtrak on May 19, 2010; and

(C) the continued operation of existing and currently planned intercity, commuter, and freight services utilizing the Northeast Corridor during the implementation of the program; and

(2) complete a business and financing plan to achieve the program under paragraph (1) that identifies the estimated—

(A) benefits and costs of the program, including ridership, revenues, capital and operating costs, and cash flow projections;

(B) implementation schedule, including the phasing of the program into achievable segments that maximize the benefits and support the ultimate completion of the program;

(C) potential financing sources for the program, including Federal, State, local, and private sector sources; and

(D) organization changes, new institutional or corporate arrangements, partnerships, procurement techniques, and other structures necessary to implement the program.

(b) SUPPORT.—The Secretary of Transportation shall provide appropriate support, assistance, oversight, and guidance to Amtrak during the preparation of the plans under subsection (a).

(c) SUBMISSION.—Amtrak shall submit the refined vision and an appropriate elements of the business and financing plan to the Federal Railroad Administration and the Northeast Corridor Infrastructure and Operations Advisory Commission for use in the development of the Northeast Corridor High Speed and Intercity Service Development Plan and the Comprehensive Long-Range Northeast Corridor Strategy.

(d) HIGH-SPEED RAIL EQUIPMENT.—The Secretary of Transportation shall not preclude the use of Federal funds made available to purchase rolling stock to purchase any equipment used for ''high-speed rail'' (as defined in section 26106(b)(4) of title 49, United States Code) that otherwise complies with all applicable Federal standards.

SEC. 36204. NORTHEAST CORRIDOR ENVIRONMENTAL REVIEW PROCESS.

(a) NORTHEAST CORRIDOR.—Not later than 90 days after the date of enactment of this Act, the Secretary shall complete a plan and a schedule for the completion of the programmatic environmental review for the Northeast Corridor. The schedule shall require the completion of the programmatic environmental review for the Northeast Corridor not later than 3 years after the date of enactment of this Act.

(b) COORDINATION WITH THE NORTHEAST CORRIDOR INFRASTRUCTURE AND OPERATIONS ADVISORY COMMISSION.—The Federal Railroad Administration shall closely coordinate the programmatic environmental review process with the Northeast Corridor Infrastructure and Operations Advisory Commission.

SEC. 36205. DELEGATION AUTHORITY.

(a) DELEGATION OF AUTHORITY.—In carrying out programmatic or project level environmental reviews for high speed and intercity passenger rail programs, projects, or services, the Secretary may delegate to Amtrak any or all of the Secretary's authority and responsibility under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), section 4(f) of the Department of Transportation Act (80 Stat. 934), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), and section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), and may provide to Amtrak any related funding provided to the Secretary for such purposes as the Secretary deems necessary if—

(1) Amtrak agrees in writing to assume the delegated authority and responsibility;

(2) Amtrak has or can obtain sufficient resources or the Secretary provides such resources to Amtrak to appropriately carry out such authority or responsibility; and

(3) delegating the authority and responsibility will improve the quality or timeliness of the environmental review.

SEC. 36206. AMTRAK INSPECTOR GENERAL.

(a) IN GENERAL.—Chapter 243 is amended by adding after section 24316 the following:

''§ 24317. Inspector general

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of the Inspector General of Amtrak the following amounts:

''(1) For fiscal year 2009, $20,000,000.
''(2) For fiscal year 2010, $21,000,000.
''(3) For fiscal year 2011, $22,000,000.
''(4) For fiscal year 2012, $22,000,000.
''(5) For fiscal year 2013, $23,000,000.

''(b) AUTHORITY.—The Inspector General of Amtrak shall have all necessary authority, in carrying out the duties specified in the Inspector General Act of 1978 (5 U.S.C. App.), to investigate allegations of fraud, including false statements to the Government under section 1001 of title 18, by any person or entity that is an employee or contractor of Amtrak.

''(c) SERVICES.—The Inspector General of Amtrak may obtain services under sections 502(a) and 602 of title 40, from the Administrator of General Services. The Administrator of General Services may provide services under sections 502(a) and 602 of title 40, to the Inspector General.''.

(b) MANAGEMENT ASSESSMENT.—Section 24310 is amended to read as follows:

''(a) IN GENERAL.—Not later than 3 years after the date of enactment of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907) and 2 years thereafter—

''(1) the Inspector General of the Department of Transportation shall complete an overall assessment of the progress made by the Department of Transportation in implementing the provisions of that Act; and

''(2) the Inspector General of Amtrak shall complete an overall assessment of the progress made by Amtrak management in implementing the provisions of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907).

''(b) ASSESSMENT.—The management assessment by the Amtrak Inspector General may include a review of—

''(1) the effectiveness in improving annual financial planning;

''(2) the effectiveness in improving financial accounting;

''(3) Amtrak management's efforts to implement minimum train performance standards;

''(4) Amtrak management's progress toward maximizing revenues, minimizing Federal subsidies, and improving financial results; and

''(5) any other aspect of Amtrak operations that the Amtrak Inspector General finds appropriate.''.

(c) INSPECTOR GENERAL POLICIES AND PROCEDURES.—The Amtrak Inspector General and Amtrak shall—

(1) continue to follow the policies and procedures for interacting with one another in a manner that is consistent with the Inspector General Act of 1978 (5 U.S.C. App.), as approved by the Council of the Inspectors General on Integrity and Efficiency; and

(2) work toward establishing proper protocols and firewalls to maintain the Amtrak Inspector General's independence, as appropriate.

(d) IMPROVEMENTS.—The Amtrak Inspector General and Amtrak shall identify any funding needs and authority improvements necessary to effectuate the policies, procedures, protocols, and firewalls under subsection (c) and submit a report of the necessary funding and authority improvements as part of their annual budget requests.

(e) TECHNICAL AMENDMENT.—Section 101 of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907), is amended by striking subsection (b) and inserting the following:

''(b) [Reserved].''.

(f) CLERICAL AMENDMENT.—The table of contents for chapter 243 is amended by adding at the end the following:

''24317. Inspector General.''.

SEC. 36207. COMPENSATION FOR PRIVATE-SECTOR USE OF FEDERALLY-FUNDED ASSETS.

If capital assets that are owned by a public entity or Amtrak built or improved with Federal funds authorized under subtitle V of title 49, United States Code, are made available for exclusive use by a for-profit entity, except for an entity owned or controlled by the Department of Transportation, for the purpose of providing intercity passenger rail service, the Secretary may require, as appropriate, that the for-profit entity provide adequate compensation, as determined by the Secretary, to the United States for the use of the capital assets in an amount that reflects the benefit of the Federal funding to the for-profit entity.

SEC. 36208. ON-TIME PERFORMANCE.

Where the on time performance of any intercity passenger train averages less than 80 percent for any 2 consecutive calendar quarters and the failure to meet such performance levels is solely the responsibility of the host railroad, Amtrak shall not pay the host railroad any incentive payments for on time performance of the subject intercity passenger train during such calendar quarters.

SEC. 36209. BOARD OF DIRECTORS.

Section 24302(a)(3) is amended by striking ''5'' the second place it appears and inserting ''4''.

Subtitle C—Rail Safety Improvements

SEC. 36301. POSITIVE TRAIN CONTROL.

(a) REVIEW AND APPROVAL.—Section 20157(c) is amended to read as follows:

''(c) REVIEW AND APPROVAL.—

''(1) REVIEW.—Not later than 90 days after the Secretary receives a proposed plan, the Secretary shall review and approve or disapprove it. If a proposed plan is not approved, the Secretary shall notify the affected railroad carrier or other entity as to the specific deficiencies in the proposed plan. The railroad carrier or other entity shall correct the deficiencies not later than 30 days after receipt of the written notice.

''(2) AMENDMENTS.—The Secretary shall review any amendments to a plan in the time frame required by section (1).

''(3) ANNUAL REVIEW.—The Secretary shall conduct an annual review to ensure that each railroad carrier and entity is complying with its plan, including a railroad carrier or entity that elects to fully implement a positive train control system prior to the required deadline.''.

(b) REPORT CRITERIA.—Section 20157(d) is amended to read as follows:

''(d) REPORT.—Not later than June 30, 2012, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the railroad carriers in implementing the positive train control systems, including—

''(1) the likelihood that each railroad will meet the December 31, 2015 deadline;

''(2) the obstacles to each railroad's successful implementation, including the obstacles identified in the General Accountability Office's report issued on December 15, 2010, and titled 'Rail Safety: Federal Railroad Administration Should Report on Risks to Successful Implementation of Mandated Safety Technology' (GAO-11-133); and

''(3) the actions that Congress, railroads, relevant Federal entities, and other stakeholders can take to mitigate obstacles to successful implementation.''.

(c) EXTENSION AUTHORITY.—Section 20157 is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g), the following:

''(h) EXTENSION.—

''(1) IN GENERAL.—After completing the report under subsection (d), the Secretary may extend in 1 year increments, upon application, the implementation deadline for an entity providing rail freight transportation or regularly scheduled intercity or commuter rail passenger transportation, if the Secretary determines that full implementation will likely be infeasible due to circumstances beyond the control of the entity, including funding availability, spectrum acquisition, and interoperability standards. The Secretary may not extend the deadline for implementation beyond December 31, 2018.

''(2) APPLICATION REVIEW.—The Secretary shall review an application submitted pursuant to paragraph (1) and approve or disapprove the application not later than 10 days after the application is received.''

(d) APPLICABILITY.—Section 20157 is amended by striking ''transported;'' in subsection (a)(1)(B) and inserting ''transported on or after December 31, 2015;''.

SEC. 36302. ADDITIONAL ELIGIBILITY FOR RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.

(a) POSITIVE TRAIN CONTROL SYSTEMS.—Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)), is amended—

(1) in subparagraph (B) by striking ''or'';

(2) in subparagraph (C) by striking ''facilities.'' and inserting ''facilities; or''; and

(3) by adding at the end the following:

''(D) implement a positive train control system, as required by section 20157 of title 49, United States Code.''.

(b) POSITIVE TRAIN CONTROL COLLATERAL.—Section 502(h)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)(2)), is amended by adding at the end the following:

''For purposes of making a finding under subsection (g)(4) for a loan for positive train control, the total cost of the labor and materials associated with installing positive train control shall be deemed to be equal to the collateral value of that asset.''.

SEC. 36303. FCC STUDY OF SPECTRUM AVAILABILITY.

(a) SPECTRUM NEEDS ASSESSMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Transportation and the Chairman of the Federal Communications Commission shall coordinate to assess spectrum needs and availability for implementing positive train control systems, as defined in section 20157 of title 49, United States Code. In conducting the spectrum needs assessment, the Secretary and the Chairman shall—

(1) evaluate the information provided in the Federal Communications Commission WT-11-79 proceeding;

(2) evaluate the positive train control implementations plans and any subsequent amendments or waivers to those plans provided to the Federal Railroad Administration; and

(3) evaluate individual railroad spectrum demand studies.

(b) RECOMMENDATIONS.—Not later than 90 days after the completion of the spectrum needs assessment under subsection (a), the Secretary and the Chairman shall submit a plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, for approximate resolution to any issues that may prevent railroad carriers or entities from complying with the December 31, 2015, positive train control implementation deadline.

Subtitle D—Freight Rail

SEC. 36401. RAIL LINE RELOCATION.

Section 20154 is amended—

(1) in subsection (b)—

(A) by striking ''either'';

(B) by striking ''or'' at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(D) by adding at the end the following:

''(3) involves a lateral or vertical relocation of any portion of a road.'';

(2) in subsection (e)(1), by striking ''10'' and inserting ''20''; and

(3) in subsection (h)(3), by inserting ''a public agency,'' after ''of a State,''.

SEC. 36402. COMPILATION OF COMPLAINTS.

(a) IN GENERAL.—Section 704 is amended—

(1) by striking the section heading and inserting the following:

''§ 704. Reports'';

(2) by inserting ''(a) ANNUAL REPORT.—'' before ''The Board''; and

(3) by adding at the end the following:

''(b) COMPLAINTS.—

''(1) IN GENERAL.—The Board shall establish and maintain a database of complaints received by the Board.

''(2) QUARTERLY REPORT.—The Board shall post a quarterly report of formal and informal service complaints received by the Board during the previous quarter that includes—

''(A) a list of the type of each complaint;

''(B) the geographic region of the complaint; and

''(C) the resolution of the complaint, if appropriate.

''(3) WRITTEN CONSENT.—The quarterly report may identify a complainant that submitted an informal complaint only upon the written consent of the complainant.

''(4) WEBSITE POSTING.—The report shall be posted on the Board's public website.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 7 is amended by striking the item relating to section 704 and inserting the following:

''704. Reports.''.

SEC. 36403. MAXIMUM RELIEF IN CERTAIN RATE CASES.

(a) IN GENERAL.—The Surface Transportation Board shall revise the maximum amount of rate relief available to railroad shippers in cases brought pursuant to the method developed under section 10701(d)(3) of title 49, United States Code, as that section existed as of the date of enactment of this Act, to be as follows:

(1) $1,500,000 in a rate case brought using the Surface Transportation Board's ''three-benchmark'' procedure.

(2) $10,000,000 in a rate case brought using the Surface Transportation Board's ''simplified stand-alone cost'' procedure.

(b) PERIODIC REVIEW.—The Board shall periodically review the amounts established by subsection (a) and revise the amounts, as appropriate.

SEC. 36404. RATE REVIEW TIMELINES.

In stand-alone cost rate challenges, the Surface Transportation Board shall comply with the following timelines unless it extends them, after a request from any party or in the interest of due process:

(1) For discovery, 150 days after the date on which the challenge is initiated.

(2) For development of the evidentiary record, 155 days after that date.

(3) For submission of parties' closing briefs, 60 days after that date.

(4) For a final Board decision, 180 days after the date on which the parties submit closing briefs.

SEC. 36405. REVENUE ADEQUACY STUDY.

(a) REVENUE ADEQUACY STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Surface Transportation Board shall initiate a study to provide further guidance on how it will apply its revenue adequacy constraint.

(2) CONSIDERATIONS.—In conducting the study, the Surface Transportation Board shall consider whether to apply the revenue adequacy constrain using replacement costs to value the assets of rail facilities and equipment.

(b) PUBLIC NOTICE.—In conducting the study under subsection (a), the Surface Transportation Board shall—

(1) provide public notice;

(2) an opportunity for comment; and

(3) conduct 1 or more public hearings.

(c) REPORT.—Not later than 60 days after the study under subsection (a) is complete, the Surface Transportation Board shall submit the findings of the study to the Commerce, Science, and Transportation Committee of the Senate and the Transportation and Infrastructure Committee of the House of Representatives.

SEC. 36406. QUARTERLY REPORTS.

Not later than 60 days after the date of enactment of this Act, the Surface Transportation Board shall provide quarterly reports to the Commerce, Science, and Transportation Committee of the Senate and the Transportation and Infrastructure Committee of the House of Representatives on the Surface Transportation Board's progress toward addressing issues raised in unfinished regulatory proceedings, regardless of whether a proceeding is subject to a statutory or regulatory deadline.

SEC. 36407. WORKFORCE REVIEW.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Chairman of the Surface Transportation Board, in consultation with the Director of the Office of Personnel Management, shall conduct a review of the Surface Transportation Board workforce to assist in the development of a comprehensive, long-term human capital improvement plan.

(b) PLAN.—Not later than 180 days after the review under subsection (a) is complete, the Chairman shall develop a comprehensive, long-term human capital improvement plan for Surface Transportation Board personnel to identify—

(1) the optimal workforce size of the Surface Transportation Board to address its current and future program needs;

(2) the hiring, training, managing, and compensation needs to recruit and retain qualified personnel, including experts to assess long-standing and emerging railroad industry trends;

(3) the means for improving the current organizational structure and workforce to most efficiently execute the Surface Transportation Board's mission; and

(4) any recommendations for potential coordination with colleges, universities, or other non-profit organizations for training programs to support workforce development.

(c) REPORT.—The Chairman shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 36408. RAILROAD REHABILITATION AND IMPROVEMENT FINANCING.

(a) CONDITIONS OF ASSISTANCE.—Section 502(h)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)(2)), as amended by section 36302 of this Act, is amended by adding at the end the following:

''The Secretary shall accept, for the purpose of making a finding with regard to adequate collateral for a public entity, the net present value on a future stream of State or local subsidy income or a dedicated revenue as collateral offered to secure a loan.''.

(b) ELIGIBLE PURPOSES.—Section 502(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(b)(1)), as amended by section 36302 of this Act, is further amended—

(1) by striking ''or'' at the end of subparagraph (C);

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

(3) by adding at the end the following:

''(E) conduct preliminary engineering, environmental review, permitting, or other pre-construction activities.''.

(c) STUDY.—The Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives detailing recommendations for improving the Railroad Rehabilitation and Improvement Financing program administration, including timely processing of applications, expansion of eligibilities, and other issues that impede passenger and rail carriers from utilizing the program.

Subtitle E—Technical Corrections

SEC. 36501. TECHNICAL CORRECTIONS.

(a) RAIL SAFETY IMPROVEMENT ACT OF 2008.—

(1) The table of contents in section 1(b) of the Rail Safety Improvement Act of 2008 (122 Stat. 4848) is amended—

(A) by striking the item relating to section 201 and inserting the following:

''Sec. 201. Pedestrian safety at or near railroad passenger stations.''; and

(B) by striking the item relating to section 403 and inserting the following:

''Sec. 403. Study and rulemaking on track inspection time; rulemaking on concrete crossties.''.

(2) Section 2(a)(1) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20102 note), is amended by inserting a comma after ''railroad tracks at grade''.

(3) Section 102(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20101 note), is amended—

(A) by striking '', at a minimum,'';

(B) in paragraph (1), by inserting a comma after ''railroads''; and

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

''(6) Improving the safety of railroad bridges, tunnels, and related infrastructure to prevent accidents, incidents, injuries, and fatalities caused by catastrophic and other failures of such infrastructure.''.

(4) Section 108(f)(1) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 21101 note), is amended by striking ''requirements for recordkeeping and reporting for Hours of Service of Railroad Employees'' and inserting ''requirements for record keeping and reporting for hours of service of railroad employees''.

(5) Section 201 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20134 note), is amended—

(A) in the section heading, by striking ''pedestrian crossing safety.'' and inserting ''pedestrian safety at or near railroad passenger stations.'';

(B) by striking ''strategies and methods to prevent pedestrian accidents, incidents, injuries, and fatalities at or near passenger stations, including'' and inserting ''strategies and methods to prevent train-related accidents, incidents, injuries, and fatalities that involve a pedestrian at or near a railroad passenger station, including''; and

(C) in paragraph (1) by striking ''at railroad passenger stations''.

(6) Section 206(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 22501 note),

is amended by striking ''Public Service Announcements'' and inserting ''public service announcements''.

(7) Section 403 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20142 note), is amended—

(A) in the section heading, by striking ''track inspection time study.'' and inserting ''study and rulemaking on track inspection time; rulemaking on concrete crossties.''; and

(B) in subsection (d)—

(i) by striking ''CROSS TIES'' in the subsection heading and inserting ''CROSSTIES'';

(ii) by striking ''cross ties'' and inserting ''crossties''; and

(iii) in paragraph (2), by striking ''cross tie'' and inserting ''crosstie''.

(8) Section 405 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended—

(A) in subsection (a), by striking ''cell phones'' and inserting ''cellular telephones''; and

(B) in subsection (d)—

(i) by striking ''of Transportation''; and

(ii) by striking ''cell phones'' and inserting ''cellular telephones''.

(9) Section 411(a) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 5103 note), is amended—

(A) by striking ''5101(a)'' and inserting ''5105(a)''; and

(B) by striking ''5101(b)'' and inserting ''5105(b)''.

(10) Section 412 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20140 note), is amended by striking ''of Transportation''.

(11) Section 414(2) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended—

(A) by striking ''parts'' and inserting ''sections''; and

(B) by striking ''part'' and inserting ''section''.

(12) Section 416 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20107 note), is amended—

(A) by striking ''of Transportation'';

(B) in paragraphs (3) and (4), by striking ''Federal Railroad Administration'' and inserting ''Secretary''; and

(C) in paragraph (4), by striking ''subsection'' and inserting ''section''.

(13) Section 417(c) of the Rail Safety Improvement Act of 2008 (49 U.S.C. 20103 note), is amended by striking ''each railroad'' and inserting ''each railroad carrier''.

(14) Section 503 of the Rail Safety Improvement Act of 2008 (49 U.S.C. 1139 note), is amended—

(A) in subsection (a), by striking ''rail accidents'' and inserting ''rail passenger accidents'';

(B) in subsection (b)—

(i) by striking ''passenger rail accidents'' and inserting ''rail passenger accidents''; and

(ii) by striking ''passenger rail accident'' each place it appears and inserting ''rail passenger accidents''; and

(C) by adding at the end the following:

''(d) DEFINITIONS.—In this section, the terms 'passenger', 'rail passenger accident', and 'rail passenger carrier' have the meanings given the terms in section 1139 of title 49, United States Code.''

''(e) FUNDING.—Out of the funds appropriated pursuant to section 20117(a)(1)(A) of title 49, United States Code, there shall be made available to the Secretary of Transportation $500,000 for fiscal year 2009 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

(b) PASSENGER RAIL INVESTMENT AND IMPROVEMENT ACT OF 2008.—

(1) Section 206(a) of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24101 note), is amended by inserting ''of this division'' after ''302''.

(2) Section 211 of the Passenger Rail Investment and Improvement Act of 2008 (49 U.S.C. 24902 note), is amended—

(A) in subsection (d), by inserting ''of this division'' after ''101(c)''; and

(B) in subsection (e), by inserting ''of this division'' after ''101(d)''.

(c) TITLE 49 OF THE UNITED STATE CODE.—

(1) Section 1139 is amended—

(A) in subsection (a)(1), by striking ''phone number'' and inserting ''telephone number'';

(B) in subsection (a)(2), by striking ''post trauma'' and inserting ''post-trauma'';

(C) in subsections (h)(1)(A) and (h)(2)(A)—

(i) by striking ''interstate''; and

(ii) by striking ''such term is'';

(D) in subsection (g)(1), by striking ''board'' in the heading and inserting ''BOARD'';

(E) in subsections (h)(1)(B) and (h)(2)(B)—

(i) by striking ''interstate or intrastate''; and

(ii) by striking ''such term is'';

(F) in subsection (j)(1)—

(i) by striking ''(other than subsection (g))'' and inserting ''(except for subsections (g) and (k))''; and

(ii) by striking ''railroad passenger accident'' and inserting ''rail passenger accident''; and

(G) in subsection (j)(2), by striking ''railroad passenger accident'' and inserting ''rail passenger accident''.

(2) Section 10909(b) is amended—

(A) by striking ''Railroad'' and inserting ''Railroads''; and

(B) in paragraph (2), by inserting a comma after ''comment''.

(3) Section 20109 is amended—

(A) in subsection (c)(1), by striking ''the railroad shall promptly arrange'' and inserting ''the railroad carrier shall promptly arrange'';

(B) in subsection (d)(2)(A)(i), by striking ''(d)'' and inserting ''paragraph'' after ''under'';

(C) in subsection (d)(2)(A)(iii), by inserting ''section'' after ''set forth in''; and

(D) in subsection (d)(4)(i), by striking ''must'' and inserting ''shall''.

(4) Section 20120(a) is amended—

(A) by striking ''(a) IN GENERAL'' and inserting ''Not'';

(B) in paragraph (2)(G), by inserting ''and'' after the semicolon;

(C) in paragraph (4), by striking ''provide'' and inserting ''provides'';

(D) in paragraph (5)(B), by striking ''Administrative Hearing Officer or Administrative Law Judge'' and inserting ''administrative hearing officer or administrative law judge''; and

(E) in paragraph (7), by striking ''its'' and inserting ''the Secretary's or the Federal Railroad Administrator's''.

(5) Section 20151(d)(1) is amended by striking ''to drive around a grade crossing gate'' and inserting ''to drive through, around, or under a grade crossing gate''.

(6) Section 20152(b) is amended by striking ''rail carriers'' and inserting ''railroad carriers''.

(7) Section 20156 is amended—

(A) in subsection (c), by inserting a comma after ''In developing its railroad safety risk reduction program''; and

(B) in subsection (g)(1), by striking ''nonprofit'' and inserting ''nonprofit''.

(8) Section 20157(a)(1) is amended—

(A) by striking ''Class I railroad carrier'' and inserting ''Class I railroad''; and

(B) by striking ''parts'' and inserting ''sections''.

(9) Section 20158(b)(3) is amended by striking ''20156(e)(2)'' and inserting ''20156(e)''.

(10) Section 20159 is amended by inserting ''of Transportation'' after ''the Secretary''.

(11) Section 20160 is amended—

(A) in subsection (a)(1), by striking ''or with respect to'' and inserting ''with respect to'';

(B) in subsection (b)(1), by striking ''On a periodic basis beginning not'' and inserting ''Not''; and

(C) in subsection (b)(1)(A), by striking ''or with respect to'' and inserting ''with respect to''.

(12) Section 20162(a)(3) is amended by striking ''railroad compliance with Federal standards'' and inserting ''railroad carrier compliance with Federal standards''.

(13) Section 20164(a) is amended by striking ''Railroad Safety Enhancement Act of 2008'' and inserting ''Rail Safety Improvement Act of 2008''.

(14) Section 21102(c)(4) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(15) Section 22106(b) is amended by striking ''interest thereof'' and inserting ''interest thereon''.

(16) Section 24101(b) is amended by striking ''subsection (d)'' and inserting ''subsection (c)''.

(17) Section 24316 is amended by striking subsection (g).

(18) The item relating to section 24316 in the table of contents for chapter 243 is amended by striking ''assist'' and inserting ''address needs of''.

(19) Section 24702(a) is amended by striking ''not included in the national rail passenger transportation system''.

(20) Section 24706 is amended—

(A) in subsection (a)(1), by striking ''a discontinuance under section 24704 or or'';

(B) in subsection (a)(2), by striking ''section 24704 or''; and

(C) in subsection (b), by striking ''section 24704 or''.

(21) Section 24709 is amended by striking ''The Secretary of the Treasury and the Attorney General,'' and inserting ''The Secretary of Homeland Security,''.

SEC. 36502. CONDEMNATION AUTHORITY.

Section 24311(c) is amended—

(1) in paragraph (1), by striking ''Interstate Commerce Commission'' and inserting ''Surface Transportation Board'';

(2) in paragraph (2), by striking ''Commission's'' and inserting ''Board's''; and

(3) by striking ''Commission'' each place it appears and inserting ''Board''.

Subtitle F—Licensing and Insurance Requirements for Passenger Rail Carriers

SEC. 36601. CERTIFICATION OF PASSENGER RAIL CARRIERS.

(a) Section 10901 is amended by adding at the end the following:

''(e) Not later than 2 years after the date of enactment of the National Rail System Preservation, Expansion, and Development Act of 2012, the Board shall establish a certification process to authorize a person to provide passenger rail transportation over a railroad line that is subject to the jurisdiction of the Board, except that such certification shall not be required for or apply to a freight railroad providing or hosting passenger rail transportation over its own railroad line.

''(f) After the certification process is established under subsection (e), no person may provide passenger rail transportation over a railroad line subject to the jurisdiction of the Board unless the person is granted a certificate under subsection (e).

''(g) The certification process under subsection (e) shall—

''(1) permit a person to initiate a proceeding for a certificate by filing an application with the Board; and

''(2) require the Board to provide reasonable public notice that a proceeding was initiated, including notice to the Governor of any affected State, not later than 30 days after receipt of the application under paragraph (1).

''(h) The Board may grant a certificate under subsection (e) if the Board determines after consultation with the Secretary of Transportation or the Secretary of Homeland Security, as appropriate, that the applicant—

''(1) has or will have in effect a voluntary agreement with the infrastructure owner over which the passenger rail transportation will be provided or contractual or statutory authority that provides for access to such infrastructure;

''(2) demonstrates sufficient financial capacity and operating experience to provide passenger rail transportation;

''(3) meets all applicable safety and security requirements under the law;

''(4) maintains a total minimum liability coverage for claims through insurance and self-insurance of not less than the amount required by section 28103(a)(2) per accident or incident; and

''(5) complies with any additional requirements the Board determines are appropriate, including reporting requirements to ensure continued compliance with this section.

''(i) A certificate granted under subsection (e) shall specify the person to provide or authorized to provide passenger rail transportation, if different from the applicant.

''(j) The Board may promulgate regulations—

''(1) for determining the adequacy of liability insurance coverage, including self-insurance; and

''(2) for suspending or canceling a certificate if the person to provide or authorized to provide passenger rail transportation fails to comply with subsection (h).

''(k) This section shall not apply to tourist, historical, or excursion passenger rail transportation or other rail carrier that has already obtained construction or operating authority from the Board.''.

(b) Section 24301(c) is amended by adding ''10901(e),'' after ''sections'' in the first sentence.

(c) Section 10501(c)(3)(A) is amended—

(1) in clause (ii), by striking ''and'';

(2) in clause (iii), by striking the period at the end and inserting '' ; and''; and

(3) by adding at the end the following:

''(iv) section 10901(e).''.

(d) Section 14901 is amended—

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

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

''(f) CERTIFICATION REQUIRED.—A person shall be subject to a penalty of $300 for each passenger transported if the person—

''(1) provides passenger rail transportation subject to jurisdiction under section 10501(a); and

''(2) does not hold a certificate required under section 10901(e).''; and

(3) in subsection (g), as redesignated, by striking ''through (e)'' and inserting ''through (f)''.

(e) Section 10502(g) is amended to read as follows:

''(g) The Board may not exercise its authority under this section to relieve a rail carrier of its obligation to protect the interests of employees as required by this part, or of the requirements of section 10901(g).''.

TITLE VII—SPORT FISH RESTORATION AND RECREATIONAL BOATING SAFETY ACT OF 2012

SEC. 37001. SHORT TITLE.

This title may be cited as the ''Sport Fish Restoration and Recreational Boating Safety Act of 2012''.

SEC. 37002. AMENDMENT OF FEDERAL AID IN SPORT FISH RESTORATION ACT.

Section 4 of the Federal Aid in Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a), by striking ''of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''fiscal year through 2013,''; and

(2) in subsection (b)(1)(A), by striking ''of fiscal years 2006 through 2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,'' and inserting ''fiscal year through 2013,''.

DIVISION D—FINANCE

SEC. 40001. SHORT TITLE.

This division may be cited as the ''Highway Investment, Job Creation, and Economic Growth Act of 2012''.

TITLE I—EXTENSION OF HIGHWAY TRUST FUND EXPENDITURE AUTHORITY AND RELATED TAXES

SEC. 40101. EXTENSION OF TRUST FUND EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''April 1, 2012'' in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting ''October 1, 2013''; and

(2) by striking ''Surface Transportation Extension Act of 2011, Part II'' in subsections (c)(1) and (e)(3) and inserting ''Moving Ahead for Progress in the 21st Century Act''.

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Surface Transportation Extension Act of 2011, Part II'' each place it appears in subsection (b)(2) and inserting ''Moving Ahead for Progress in the 21st Century Act''; and

(2) by striking ''April 1, 2012'' in subsection (d)(2) and inserting ''October 1, 2013''.

(c) LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—Paragraph (2) of section 9508(e) of the Internal Revenue Code of 1986 is amended by striking ''April 1, 2012'' and inserting ''October 1, 2013''.

(d) ESTABLISHMENT OF SOLVENCY ACCOUNT.—Section 9503 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(g) ESTABLISHMENT OF SOLVENCY ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the 'Solvency Account' consisting of such amounts as may be transferred or credited to the Solvency Account as provided in this section or section 9602(b).

''(2) TRANSFERS TO SOLVENCY ACCOUNT.—The Secretary of the Treasury shall transfer to the Solvency Account the excess of—

''(A) any amount appropriated to the Highway Trust Fund before October 1, 2013, by reason of the provisions of, and amendments made by, the Highway Investment, Job Creation, and Economic Growth Act of 2012, over

''(B) the amount necessary to meet the required expenditures from the Highway Trust Fund under subsection (c) for the period ending before October 1, 2013.

''(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Solvency Account shall be available for transfers to the Highway Account (as defined in subsection (e)(5)(B)) and the Mass Transit Account in such amounts as determined necessary by the Secretary to ensure that each account has a surplus balance of $2,800,000,000 on September 30, 2013.

''(4) TERMINATION OF ACCOUNT.—The Solvency Account shall terminate on September 30, 2013, and the Secretary shall transfer any remaining balance in the Account on such date to the Highway Trust Fund.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

SEC. 40102. EXTENSION OF HIGHWAY-RELATED TAXES.

(a) IN GENERAL.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking ''March 31, 2012'' and inserting ''September 30, 2015'':

(A) Section 4041(a)(1)(C)(iii)(I).

(B) Section 4041(m)(1)(B).

(C) Section 4081(d)(1).

(2) Each of the following provisions of such Code is amended by striking ''April 1, 2012'' and inserting ''October 1, 2015'':

(A) Section 4041(m)(1)(A).

(B) Section 4051(c).

(C) Section 4071(d).

(D) Section 4081(d)(3).

(b) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking ''2012'' and inserting ''2015'':

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''April 1, 2012'' each place it appears and inserting ''October 1, 2015'';

(2) by striking ''September 30, 2012'' each place it appears and inserting ''March 31, 2016''; and

(3) by striking ''July 1, 2012'' and inserting ''January 1, 2016''.

(d) EXTENSION OF CERTAIN EXEMPTIONS.—Sections 4221(a) and 4483(i) of the Internal Revenue Code of 1986 are each amended by striking ''April 1, 2012'' and inserting ''October 1, 2015''.

(e) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking ''April 1, 2012'' each place it appears in paragraphs (1) and (2) and inserting ''October 1, 2015'';

(ii) by striking ''APRIL 1, 2012'' in the heading of paragraph (2) and inserting ''OCTOBER 1, 2015'';

(iii) by striking ''March 31, 2012'' in paragraph (2) and inserting ''September 30, 2015''; and

(iv) by striking ''January 1, 2013'' in paragraph (2) and inserting ''July 1, 2016''; and

(B) in subsection (c)(2), by striking ''January 1, 2013'' and inserting ''July 1, 2016''.

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are each amended by striking ''April 1, 2012'' and inserting ''October 1, 2015''.

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11(b)) is amended—

(i) by striking ''April 1, 2013'' each place it appears and inserting ''October 1, 2016''; and

(ii) by striking ''April 1, 2012'' and inserting ''October 1, 2015''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2012.

TITLE II—OTHER PROVISIONS

SEC. 40201. TEMPORARY INCREASE IN SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subparagraph (G) of section 265(b)(3) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''2009 or 2010'' in clause (i) and inserting ''2009, 2010, or 2012'',

(2) by striking ''2009 or 2010'' each place it appears in clauses (ii) and (iii) and inserting ''2009, 2010, or the period beginning after the date of the enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013'', and

(3) by striking ''2009 AND 2010'' in the heading and inserting ''2009, 2010, AND 2012''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 40202. TEMPORARY MODIFICATION OF ALTERNATIVE MINIMUM TAX LIMITATIONS ON TAX-EXEMPT BONDS.

(a) INTEREST ON PRIVATE ACTIVITY BONDS NOT TREATED AS TAX PREFERENCE ITEMS.—Clause (vi) of section 57(a)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting '', or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013'' after ''January 1, 2011'';

(2) in subclause (III) by inserting ''before January 1, 2011'' after ''which is issued''; and

(3) by striking ''AND 2010'' in the heading and inserting '', 2010, AND PORTIONS OF 2012''.

(b) NO ADJUSTMENT TO ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (I) by inserting '', or after the date of enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and before January 1, 2013'' after ''January 1, 2011'';

(2) in subclause (III) by inserting ''before January 1, 2011'' after ''which is issued''; and

(3) by striking ''AND 2010'' in the heading and inserting '', 2010, AND PORTIONS OF 2012''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of enactment of this Act.

SEC. 40203. ISSUANCE OF TRIP BONDS BY STATE INFRASTRUCTURE BANKS.

Section 610(d) of title 23, United States Code, is amended—

(1) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively,

(2) by inserting after paragraph (3) the following new paragraph:

''(4) TRIP BOND ACCOUNT.—

''(A) IN GENERAL.—A State, through a State infrastructure bank, may issue TRIP bonds and deposit proceeds from such issuance into the TRIP bond account of the bank.

''(B) TRIP BOND.—For purposes of this section, the term 'TRIP bond' means any bond issued as part of an issue if—

''(i) 100 percent of the available project proceeds of such issue are to be used for expenditures incurred after the date of the enactment of this paragraph for 1 or more qualified projects pursuant to an allocation of such proceeds to such project or projects by a State infrastructure bank,

''(ii) the bond is issued by a State infrastructure bank and is in registered form (within the meaning of section 149(a) of the Internal Revenue Code of 1986),

''(iii) the State infrastructure bank designates such bond for purposes of this section, and

''(iv) the term of each bond which is part of such issue does not exceed 30 years.

''(C) QUALIFIED PROJECT.—For purposes of this subparagraph, the term 'qualified project' means the capital improvements to any transportation infrastructure project of any governmental unit or other person, including roads, bridges, rail and transit systems, ports, and inland waterways proposed and approved by a State infrastructure bank, but does not include costs of operations or maintenance with respect to such project.'',

(3) by adding at the end of paragraph (5), as redesignated by paragraph (1), the following new subparagraph:

''(D) TRIP BOND ACCOUNT..—Funds deposited into the TRIP bond account shall constitute for purposes of this section a capitalization grant for the TRIP bond account of the bank.'', and

(4) by adding at the end the following new paragraph:

''(8) SPECIAL RULES FOR TRIP BOND ACCOUNT FUNDS.—

''(A) IN GENERAL.—The State shall develop a transparent competitive process for the award of funds deposited into the TRIP bond account that considers the impact of qualified projects on the economy, the environment, state of good repair, and equity.

''(B) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including this title and titles 40 and 49, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

''(i) funds made available under the TRIP bond account for similar qualified projects, and

''(ii) similar qualified projects assisted through the use of such funds.''.

SEC. 40204. EXTENSION OF PARITY FOR EXCLUSION FROM INCOME FOR EMPLOYER-PROVIDED MASS TRANSIT AND PARKING BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 132(f) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2012'' and inserting ''January 1, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months after December 31, 2011.

SEC. 40205. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.

(a) BONDS FOR WATER AND SEWAGE FACILITIES TEMPORARILY EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY BONDS.—Subsection (g) of section 146 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting '', and'', and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) any exempt facility bonds issued before January 1, 2018, as part of an issue described in paragraph (4) or (5) of section 142(a).''.

(b) CONFORMING CHANGE.—Paragraphs (2) and (3)(B) of section 146(k) of the Internal Revenue Code of 1986 are both amended by striking ''paragraph (4), (5), (6), or (10) of section 142(a)'' and inserting ''paragraph (4) or (5) of section 142(a) with respect to bonds issued after December 31, 2017, or paragraph (6) or (10) of section 142(a)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

TITLE III—REVENUE PROVISIONS

SEC. 40301. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Amounts'' and inserting:

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts'', and

(2) by adding at the end the following new paragraph:

''(2) TRANSFER TO HIGHWAY TRUST FUND.—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated $3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.''.

(b) TRANSFER TO HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

''(3) INCREASE IN FUND BALANCE.—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).''.

(2) CONFORMING AMENDMENTS.—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting ''or transferred'' after ''appropriated'', and

(B) by striking ''APPROPRIATED'' in the heading thereof.

SEC. 40302. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

''(3) PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-third of the taxes received in the Treasury under—

''(A) section 4041(d) (relating to additional taxes on motor fuels),

''(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and

''(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting ''two-thirds of the'' before ''taxes''.

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

SEC. 40303. TRANSFER OF GAS GUZZLER TAXES TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Paragraph (1) of section 9503(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(B) section 4064 (relating to gas guzzler tax),''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

SEC. 40304. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN UNPAID TAXES.

(a) IN GENERAL.—Subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 7345. REVOCATION OR DENIAL OF PASSPORT IN CASE OF CERTAIN TAX DELINQUENCIES.

''(a) IN GENERAL.—If the Secretary receives certification by the Commissioner of Internal Revenue that any individual has a seriously delinquent tax debt in an amount in excess of $50,000, the Secretary shall transmit such certification to the Secretary of State for action with respect to denial, revocation, or limitation of a passport pursuant to section 4 of the Act entitled 'An Act to regulate the issue and validity of passports, and for other purposes', approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the 'Passport Act of 1926'.

''(b) SERIOUSLY DELINQUENT TAX DEBT.—For purposes of this section, the term 'seriously delinquent tax debt' means an outstanding debt under this title for which a notice of lien has been filed in public records pursuant to section 6323 or a notice of levy has been filed pursuant to section 6331, except that such term does not include—

''(1) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, and

''(2) a debt with respect to which collection is suspended because a collection due process hearing under section 6330, or relief under subsection (b), (c), or (f) of section 6015, is requested or pending.

''(c) ADJUSTMENT FOR INFLATION.—In the case of a calendar year beginning after 2012, the dollar amount in subsection (a) shall be increased by an amount equal to—

''(1) such dollar amount, multiplied by

''(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next highest multiple of $1,000.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 75 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7345. Revocation or denial of passport in case of certain tax delinquencies.''.

(c) AUTHORITY FOR INFORMATION SHARING.—

(1) IN GENERAL.—Subsection (l) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(23) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF STATE FOR PURPOSES OF PASSPORT REVOCATION UNDER SECTION 7345.—

''(A) IN GENERAL.—The Secretary shall, upon receiving a certification described in section 7345, disclose to the Secretary of State return information with respect to a taxpayer who has a seriously delinquent tax debt described in such section. Such return information shall be limited to—

''(i) the taxpayer identity information with respect to such taxpayer, and

''(ii) the amount of such seriously delinquent tax debt.

''(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of State for the purposes of, and to the extent necessary in, carrying out the requirements of section 4 of the Act entitled 'An Act to regulate the issue and validity of passports, and for other purposes', approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the 'Passport Act of 1926'.''.

(2) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) of such Code is amended by striking ''or (22)'' each place it appears in subparagraph (F)(ii) and in the matter preceding subparagraph (A) and inserting ''(22), or (23)''.

(d) REVOCATION AUTHORIZATION.—The Act entitled ''An Act to regulate the issue and validity of passports, and for other purposes'', approved July 3, 1926 (22 U.S.C. 211a et seq.), commonly known as the ''Passport Act of 1926'', is amended by adding at the end the following:

''SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT.

''(a) INELIGIBILITY.—

''(1) ISSUANCE.—Except as provided under subsection (b), upon receiving a certification described in section 7345 of the Internal Revenue Code of 1986 from the Secretary of the Treasury, the Secretary of State may not issue a passport or passport card to any individual who has a seriously delinquent tax debt described in such section.

''(2) REVOCATION.—The Secretary of State shall revoke a passport or passport card previously issued to any individual described in subparagraph (A).

''(b) EXCEPTIONS.—

''(1) EMERGENCY AND HUMANITARIAN SITUATIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport or passport card, in emergency circumstances or for humanitarian reasons, to an individual described in subsection (a)(1).

''(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the Secretary of State, before revocation, may—

''(A) limit a previously issued passport or passport card only for return travel to the United States; or

''(B) issue a limited passport or passport card that only permits return travel to the United States.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2013.

SEC. 40305. 100 PERCENT CONTINUOUS LEVY ON PAYMENTS TO MEDICARE PROVIDERS AND SUPPLIERS.

(a) IN GENERAL.—Paragraph (3) of section 6331(h) of the Internal Revenue Code of 1986 is amended by striking the period at the end and inserting '', or to a Medicare provider or supplier under title XVIII of the Social Security Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 40306. TRANSFER OF AMOUNTS ATTRIBUTABLE TO CERTAIN DUTIES ON IMPORTED VEHICLES INTO THE HIGHWAY TRUST FUND.

Section 9503(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) CERTAIN DUTIES ON IMPORTED VEHICLES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the amounts received in the Treasury that are attributable to duties collected on or after October 1, 2011, and before October 1, 2016, on articles classified under subheading 8703.22.00 or 8703.24.00 of the Harmonized Tariff Schedule of the United States.''.

SEC. 40307. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.

(a) IN GENERAL.—Section 361 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING SECTION 355 DISTRIBUTIONS.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

''(1) this section shall be applied by substituting 'stock other than nonqualified preferred stock (as defined in section 351(g)(2))' for 'stock or securities' in subsections (a) and (b)(1), and

''(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by the amount of the liabilities assumed (within the meaning of section 357(c))).''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on February 6, 2012, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before February 6, 2012; or

(C) described on or before February 6, 2012, in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 40308. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.

Section 8437(e)(3) of title 5, United States Code, is amended by inserting '', the enforcement of a Federal tax levy as provided in section 6331 of the Internal Revenue Code of 1986,'' after ''(42 U.S.C. 659)''.

SEC. 40309. DEPRECIATION AND AMORTIZATION RULES FOR HIGHWAY AND RELATED PROPERTY SUBJECT TO LONG-TERM LEASES.

(a) ACCELERATED COST RECOVERY.—

(1) IN GENERAL.—Section 168(g)(1) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

''(E) any applicable leased highway property,''.

(2) RECOVERY PERIOD.—The table contained in subparagraph (C) of section 168(g)(2) of such Code is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) Applicable leased highway property ..... 45 years.''.

(3) APPLICABLE LEASED HIGHWAY PROPERTY DEFINED.—

(A) IN GENERAL.—Section 168(g) of such Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) APPLICABLE LEASED HIGHWAY PROPERTY.—For purposes of paragraph (1)(E)—

''(A) IN GENERAL.—The term 'applicable leased highway property' means property to which this section otherwise applies which—

''(i) is subject to an applicable lease, and

''(ii) is placed in service before the date of such lease.

''(B) APPLICABLE LEASE.—The term 'applicable lease' means a lease or other arrangement—

''(i) which is between the taxpayer and a State or political subdivision thereof, or any agency or instrumentality of either, and

''(ii) under which the taxpayer—

''(I) leases a highway and associated improvements,

''(II) receives a right-of-way on the public lands underlying such highway and improvements, and

''(III) receives a grant of a franchise or other intangible right permitting the taxpayer to receive funds relating to the operation of such highway.''.

(B) CONFORMING AMENDMENT.—Subparagraph (F) of section 168(g)(1) (as redesignated by subsection (a)(1)) is amended by striking ''paragraph (7)'' and inserting ''paragraph (8)''.

(b) AMORTIZATION OF INTANGIBLES.—Section 197(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(11) INTANGIBLES RELATING TO APPLICABLE LEASED HIGHWAY PROPERTY.—In the case of any amortizable section 197 intangible property which is acquired in connection with an applicable lease (as defined in section 168(g)(7)(B)), the amortization period under this section shall not be less than the term of the applicable lease. For purposes of the preceding sentence, rules similar to the rules of section 168(i)(3)(A) shall apply in determining the term of the applicable lease.''.

(c) NO PRIVATE ACTIVITY BOND FINANCING OF APPLICABLE LEASED HIGHWAY PROPERTY.—Section 147(e) of the Internal Revenue Code of 1986 is amended by inserting '', or to finance any applicable leased highway property (as defined in section 168(g)(7)(A))'' after ''premises''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to leases entered into after the date of the enactment of this Act.

(2) NO PRIVATE ACTIVITY BOND FINANCING.—The amendment made by subsection (c) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 40310. EXTENSION FOR TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2013'' and inserting ''December 31, 2021''.

(b) CONFORMING ERISA AMENDMENTS.—

(1) Sections 101(e)(3), 403(c)(1), and 408(b)(13) of the Employee Retirement Income Security Act of 1974 are each amended by striking ''Pension Protection Act of 2006'' and inserting ''Highway Investment, Job Creation, and Economic Growth Act of 2012''.

(2) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking ''January 1, 2014'' and inserting ''January 1, 2022''.

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

SEC. 40311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE GROUP TERM LIFE INSURANCE ACCOUNTS.

(a) IN GENERAL.—Subsection (a) of section 420 of the Internal Revenue Code of 1986 is amended by inserting '', or an applicable life insurance account,'' after ''health benefits account''.

(b) APPLICABLE LIFE INSURANCE ACCOUNT DEFINED.—

(1) IN GENERAL.—Subsection (e) of section 420 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) APPLICABLE LIFE INSURANCE ACCOUNT.—The term 'applicable life insurance account' means a separate account established and maintained for amounts transferred under this section for qualified current retiree liabilities based on premiums for applicable life insurance benefits.''.

(2) APPLICABLE LIFE INSURANCE BENEFITS DEFINED.—Paragraph (1) of section 420(e) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) APPLICABLE LIFE INSURANCE BENEFITS.—The term 'applicable life insurance benefits' means group-term life insurance coverage provided to retired employees who, immediately before the qualified transfer, are entitled to receive such coverage by reason of retirement and who are entitled to pension benefits under the plan, but only to the extent that such coverage is provided under a policy for retired employees and the cost of such coverage is excludable from the retired employee's gross income under section 79.''.

(3) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS DEFINED.—

(A) IN GENERAL.—Paragraph (6) of section 420(f) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) COLLECTIVELY BARGAINED LIFE INSURANCE BENEFITS.—The term 'collectively bargained life insurance benefits' means, with respect to any collectively bargained transfer—

''(i) applicable life insurance benefits which are provided to retired employees who, immediately before the transfer, are entitled to receive such benefits by reason of retirement, and

''(ii) if specified by the provisions of the collective bargaining agreement governing the transfer, applicable life insurance benefits which will be provided at retirement to employees who are not retired employees at the time of the transfer.''.

(B) CONFORMING AMENDMENTS.—

(i) Clause (i) of section 420(e)(1)(C) of such Code is amended by striking ''upon retirement'' and inserting ''by reason of retirement''.

(ii) Subparagraph (C) of section 420(f)(6) of such Code is amended—

(I) by striking ''which are provided to'' in the matter preceding clause (i),

(II) by inserting ''which are provided to'' before ''retired employees'' in clause (i),

(III) by striking ''upon retirement'' in clause (i) and inserting ''by reason of retirement'', and

(IV) by striking ''active employees who, following their retirement,'' and inserting ''which will be provided at retirement to employees who are not retired employees at the time of the transfer and who''.

(c) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Subparagraph (A) of section 420(c)(3) of the Internal Revenue Code of 1986 is amended by inserting '', and each group-term life insurance plan under which applicable life insurance benefits are provided,'' after ''health benefits are provided''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 420(c)(3) of such Code is amended—

(i) by redesignating subclauses (I) and (II) of clause (i) as subclauses (II) and (III) of such clause, respectively, and by inserting before subclause (II) of such clause, as so redesignated, the following new subclause:

''(I) separately with respect to applicable health benefits and applicable life insurance benefits,'', and

(ii) by striking ''for applicable health benefits'' and all that follows in clause (ii) and inserting ''was provided during such taxable year for the benefits with respect to which the determination under clause (i) is made.''.

(B) Subparagraph (C) of section 420(c)(3) of such Code is amended—

(i) by inserting ''for applicable health benefits'' after ''applied separately'', and

(ii) by inserting '', and separately for applicable life insurance benefits with respect to individuals age 65 or older at any time during the taxable year and with respect to individuals under age 65 during the taxable year'' before the period.

(C) Subparagraph (E) of section 420(c)(3) of such Code is amended—

(i) in clause (i), by inserting ''or retiree life insurance coverage, as the case may be,'' after ''retiree health coverage'', and

(ii) in clause (ii), by inserting ''FOR RETIREE HEALTH COVERAGE'' after ''COST REDUCTIONS'' in the heading thereof, and

(iii) in clause (ii)(II), by inserting ''with respect to applicable health benefits'' after ''liabilities of the employer''.

(D) Paragraph (2) of section 420(f) of such Code is amended by striking ''collectively bargained retiree health liabilities'' each place it occurs and inserting ''collectively bargained retiree liabilities''.

(E) Clause (i) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting '', and each group-term life insurance plan or arrangement under which applicable life insurance benefits are provided,'' in subclause (I) after ''applicable health benefits are provided'',

(ii) by inserting ''or applicable life insurance benefits, as the case may be,'' in subclause (I) after ''provides applicable health benefits'',

(iii) by striking ''group health'' in subclause (II), and

(iv) by inserting ''or collectively bargained life insurance benefits'' in subclause (II) after ''collectively bargained health benefits''.

(F) Clause (ii) of section 420(f)(2)(D) of such Code is amended—

(i) by inserting ''with respect to applicable health benefits or applicable life insurance benefits'' after ''requirements of subsection (c)(3)'', and

(ii) by adding at the end the following: ''Such election may be made separately with respect to applicable health benefits and applicable life insurance benefits. In the case of an election with respect to applicable life insurance benefits, the first sentence of this clause shall be applied as if subsection (c)(3) as in effect before the amendments made by such Act applied to such benefits.''

(G) Clause (iii) of section 420(f)(2)(D) of such Code is amended—

(i) by striking ''retiree'' each place it occurs, and

(ii) by inserting '', collectively bargained life insurance benefits, or both, as the case may be,'' after ''health benefits'' each place it occurs.

(d) COORDINATION WITH SECTION 79.—Section 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) EXCEPTION FOR LIFE INSURANCE PURCHASED IN CONNECTION WITH QUALIFIED TRANSFER OF EXCESS PENSION ASSETS.—Subsection (b)(3) and section 72(m)(3) shall not apply in the case of any cost paid (whether directly or indirectly) with assets held in an applicable life insurance account (as defined in section 420(e)(4)) under a defined benefit plan.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 420 of the Internal Revenue Code of 1986 is amended by striking ''qualified current retiree health liabilities'' each

place it appears and inserting ''qualified current retiree liabilities''.

(2) Section 420 of such Code is amended by inserting '', or an applicable life insurance account,'' after ''a health benefits account'' each place it appears in subsection (b)(1)(A), subparagraphs (A), (B)(i), and (C) of subsection (c)(1), subsection (d)(1)(A), and subsection (f)(2)(E)(ii).

(3) Section 420(b) of such Code is amended—

(A) by adding the following at the end of paragraph (2)(A): ''If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.'', and

(B) by inserting ''to an account'' after ''may be transferred'' in paragraph (3).

(4) The heading for section 420(c)(1)(B) of such Code is amended by inserting ''OR LIFE INSURANCE'' after ''HEALTH BENEFITS''.

(5) Paragraph (1) of section 420(e) of such Code is amended—

(A) by inserting ''and applicable life insurance benefits'' in subparagraph (A) after ''applicable health benefits'', and

(B) by striking ''HEALTH'' in the heading thereof.

(6) Subparagraph (B) of section 420(e)(1) of such Code is amended—

(A) in the matter preceding clause (i), by inserting ''(determined separately for applicable health benefits and applicable life insurance benefits)'' after ''shall be reduced by the amount'',

(B) in clause (i), by inserting ''or applicable life insurance accounts'' after ''health benefit accounts'', and

(C) in clause (i), by striking ''qualified current retiree health liability'' and inserting ''qualified current retiree liability''.

(7) The heading for subsection (f) of section 420 of such Code is amended by striking ''HEALTH'' each place it occurs.

(8) Subclause (II) of section 420(f)(2)(B)(ii) of such Code is amended by inserting ''or applicable life insurance account, as the case may be,'' after ''health benefits account''.

(9) Subclause (III) of section 420(f)(2)(E)(i) of such Code is amended—

(A) by inserting ''defined benefit'' before ''plan maintained by an employer'', and

(B) by inserting ''health'' before ''benefit plans maintained by the employer''.

(10) Paragraphs (4) and (6) of section 420(f) of such Code are each amended by striking ''collectively bargained retiree health liabilities'' each place it occurs and inserting ''collectively bargained retiree liabilities''.

(11) Subparagraph (A) of section 420(f)(6) of such Code is amended—

(A) in clauses (i) and (ii), by inserting '', in the case of a transfer to a health benefits account,'' before ''his covered spouse and dependents'', and

(B) in clause (ii), by striking ''health plan'' and inserting ''plan''.

(12) Subparagraph (B) of section 420(f)(6) of such Code is amended—

(A) in clause (i), by inserting '', and collectively bargained life insurance benefits,'' after ''collectively bargained health benefits'',

(B) in clause (ii)—

(i) by adding at the end the following: ''The preceding sentence shall be applied separately for collectively bargained health benefits and collectively bargained life insurance benefits.'', and

(ii) by inserting '', applicable life insurance accounts,'' after ''health benefit accounts'', and

(C) by striking ''HEALTH'' in the heading thereof.

(13) Subparagraph (E) of section 420(f)(6) of such Code, as redesignated by subsection (b), is amended—

(A) by striking ''bargained health'' and inserting ''bargained'',

(B) by inserting '', or a group-term life insurance plan or arrangement for retired employees,'' after ''dependents'' , and

(C) by striking ''HEALTH'' in the heading thereof.

(14) Section 101(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)) is amended—

(A) in paragraphs (1) and (2), by inserting ''or applicable life insurance account'' after ''health benefits account'' each place it appears, and

(B) in paragraph (1), by inserting ''or applicable life insurance benefit liabilities'' after ''health benefits liabilities''.

(f) TECHNICAL CORRECTION.—Clause (iii) of section 420(f)(6)(B) is amended by striking ''416(I)(1)'' and inserting ''416(i)(1)''.

(g) REPEAL OF DEADWOOD.—

(1) Subparagraph (A) of section 420(b)(1) of the Internal Revenue Code of 1986 is amended by striking ''in a taxable year beginning after December 31, 1990''.

(2) Subsection (b) of section 420 of such Code is amended by striking paragraph (4) and by redesignating paragraph (5), as amended by this Act, as paragraph (4).

(3) Paragraph (2) of section 420(b) of such Code, as amended by this section, is amended—

(A) by striking subparagraph (B), and

(B) by striking ''PER YEAR.—'' and all that follows through ''No more than'' and inserting ''PER YEAR.—No more than''.

(4) Paragraph (2) of section 420(c) of such Code is amended—

(A) by striking subparagraph (B),

(B) by moving subparagraph (A) two ems to the left, and

(C) by striking ''BEFORE TRANSFER.—'' and all that follows through ''The requirements of this paragraph'' and inserting the following: ''BEFORE TRANSFER.—The requirements of this paragraph''.

(5) Paragraph (2) of section 420(d) of such Code is amended by striking ''after December 31, 1990''.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

(2) CONFORMING AMENDMENTS RELATING TO PENSION PROTECTION ACT.—The amendments made by subsections (b)(3)(B) and (f) shall take effect as if included in the amendments made by section 841(a) of the Pension Protection Act of 2006.

SEC. 40312. PENSION FUNDING STABILIZATION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subparagraph (C) of section 430(h)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clause:

''(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest.''.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 404(o) of such Code is amended by inserting ''(determined by not taking into account any adjustment under clause (iv) of subsection (h)(2)(C) thereof)'' before the period.

(B) Subparagraph (F) of section 430(h)(2) of such Code is amended by inserting ''and the averages determined under subparagraph (C)(iv)'' after ''subparagraph (C)''.

(C) Subparagraphs (C) and (D) of section 417(e)(3) of such Code are each amended by striking ''section 430(h)(2)(C)'' and inserting ''section 430(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Subparagraph (C) of section 303(h)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(h)(2)) is amended by adding at the end the following new clause:

''(iv) SEGMENT RATE STABILIZATION.—If a segment rate described in clause (i), (ii), or (iii) with respect to any applicable month (determined without regard to this clause) is less than 85 percent, or more than 115 percent, of the average of the segment rates (determined on an annual basis by the Secretary of the Treasury) described in such clause for years in the 10-year period ending with September 30 of the calendar year preceding the calendar year in which the plan year begins, then the segment rate described in such clause with respect to the applicable month shall be equal to 85 or 115 percent of such average, whichever is closest.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (F) of section 303(h)(2) of such Act (29 U.S.C. 1083(h)(2)) is amended by inserting ''and the averages determined under subparagraph (C)(iv)'' after ''subparagraph (C)''.

(B) Clauses (ii) and (iii) of section 205(g)(3)(B) of such Act (29 U.S.C. 1055(g)(3)(B)) are each amended by striking ''section 303(h)(2)(C)'' and inserting ''section 303(h)(2)(C) (determined by not taking into account any adjustment under clause (iv) thereof)''.

(C) Clause (iv) of section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended by striking ''section 303(h)(2)(C)'' and inserting ''section 303(h)(2)(C) (notwithstanding any regulations issued by the corporation, determined by not taking into account any adjustment under clause (iv) thereof)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2011.

(d) TRANSFER TO HIGHWAY TRUST FUND.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) ADDITIONAL APPROPRIATION TO FUND.—Out of money in the Treasury not otherwise appropriated, there is hereby appropriated $1,588,000,000 to the Highway Trust Fund.''.

SA 1762. Mr. REID proposed an amendment to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end, add the following:

SEC.___. EFFECTIVE DATE.

This Act shall become effective 7 days after enactment.

SA 1763. Mr. REID proposed an amendment to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

At the end, add the following new section:

SEC.___.

This Act shall become effective 6 days after enactment.

SA 1764. Mr. REID proposed an amendment to amendment SA 1763 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

In the amendment, strike ''6 days'' and insert ''5 days''.

SA 1765. Mr. REID proposed an amendment to amendment SA 1764 proposed by Mr. REID to the amendment SA 1763 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; as follows:

In the amendment, strike ''5 days'' and insert ''4 days''.

SA 1766. Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 232, strike line 17 and all that follows through page 248, line 6, and insert the following:

SEC. 20017. REQUIREMENTS FOR PUBLIC TRANSPORTATION PROJECTS.

(a) GENERAL PROVISIONS.—Section 5323 of title 49, United States Code, is amended to read as follows:

''§ 5323. General provisions

''(a) INTERESTS IN PROPERTY.—

''(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

''(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303 and 5304;

''(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

''(C) just compensation under State or local law will be paid to the company for its franchise or property.

''(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

''(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

''(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

''(1) COOPERATION AND CONSULTATION.—In carrying out the goal described in section 5301(c)(2), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

''(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

''(d) CORRIDOR PRESERVATION.—

''(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

''(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

''(e) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

''(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

''(2) VIOLATIONS.—

''(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

''(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

''(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

''(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

''(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

''(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

''(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

''(g) SCHOOL BUS TRANSPORTATION.—

''(1) AGREEMENTS.—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide school bus transportation that exclusively transports students and school personnel in competition with a private school bus operator. This subsection does not apply—

''(A) to an applicant that operates a school system in the area to be served and a separate and exclusive school bus program for the school system; and

''(B) unless a private school bus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

''(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

''(h) BUYING BUSES UNDER OTHER LAWS.—Subsections (e) and (g) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

''(i) GRANT AND LOAN PROHIBITIONS.—A grant or loan may not be used to—

''(1) pay ordinary governmental or nonproject operating expenses; or

''(2) support a procurement that uses an exclusionary or discriminatory specification.

''(j) GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

''(k) BUY AMERICA.—

''(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

''(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

''(A) applying paragraph (1) would be inconsistent with the public interest;

''(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

''(C) when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

''(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

''(ii) final assembly of the rolling stock has occurred in the United States; or

''(D) including domestic material will increase the cost of the overall project by more than 25 percent.

''(3) BUY AMERICA WAIVER REQUIREMENTS.—

''(A) NOTICE AND COMMENT OPPORTUNITIES.—

''(i) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, section 5323(j)(2)

of title 49, United States Code, or section 24305(f)(4), 24405(a)(2), or 50101(b) of such title, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 30 days before making a finding based on such request.

''(ii) NOTICE REQUIREMENTS.—Each notice provided under clause (i)—

''(I) shall include the information available to the Secretary concerning the request, including the requestor's justification for such request; and

''(II) shall be provided electronically, including on the official public Internet website of the Department.

''(B) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in subparagraph (A)(i), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

''(i) addresses the public comments received under subparagraph (A)(i); and

''(ii) is published before the waiver takes effect.

''(C) BUY AMERICA REPORTING.—Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

''(i) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under a provision referenced in subparagraph (A)(i) during the preceding calendar year;

''(ii) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under clause (i); and

''(iii) summarizes the monetary value of contracts awarded pursuant to each such waiver.

''(D) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This paragraph shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

''(E) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of the Federal Public Transportation Act of 2012, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in subparagraph (A)(i) to determine whether continuing such waiver is necessary.

''(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

''(5) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

''(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

''(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

''(6) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2012 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

''(A) affixed a 'Made in America' label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

''(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

''(7) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced, or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

''(8) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

''(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

''(10) APPLICATION TO TRANSIT PROGRAMS.—The requirements under this subsection shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

''(l) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

''(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

''(2) be included in the planning for those services.

''(m) RELATIONSHIP TO OTHER LAWS.—

''(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

''(2) POLITICAL ACTIVITIES OF NONSUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

''(n) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (k) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

''(o) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

''(p) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

''(q) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

''(1) the incidental use does not interfere with the recipient's public transportation operations;

''(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

''(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

''(4) private entities pay all applicable excise taxes on fuel.

''(r) FIXED GUIDEWAY CATEGORICAL EXCLUSION.—

''(1) STUDY.—Not later than 6 months after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall conduct a study to determine the feasibility of providing a categorical exclusion for streetcar, bus rapid transit, and light rail projects located within an existing transportation right-of-way from the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with the Council on Environmental Quality implementing regulations under parts 1500 through 1508 of title 40, Code of Federal Regulations, or any successor thereto.

''(2) FINDINGS AND RULES.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, the Secretary shall issue findings and, if appropriate, issue rules to provide categorical exclusions for suitable categories of projects.''.

(b) BUY AMERICA PROVISIONS.—

(1) SURFACE TRANSPORTATION.—Section 313 of title 23, United States Code, is amended by adding at the end the following:

''(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42

U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.''.

(2) AMTRAK.—Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

''(5) The requirements under this subsection shall apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.''.

(3) APPLICATION TO INTERCITY PASSENGER RAIL SERVICE CORRIDORS.—Section 24405(a) of title 49, United States Code, is amended—

(A) by striking paragraph (4);

(B) by redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively; and

(C) by adding at the end the following:

''(11) The requirements under this subsection shall apply to all contracts eligible for Federal funding for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.''.

SA 1767. Mr. LAUTENBERG (for himself, Mr. DURBIN, Mrs. GILLIBRAND, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 87, between lines 15 and 16, insert the following:

''(29) Capital costs for passenger rail projects eligible for assistance under title 49, including vehicles and facilities.

SA 1768. Mr. HARKIN (for himself, Mr. MORAN, Mr. LEVIN, Ms. STABENOW, and Mr. SANDERS) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division B of the amendment, add the following:

SEC. ___. INCREASING THE PRIORITY OF BUSES AND IMPROVING FLEXIBILITY FOR PUBLIC TRANSPORTATION FUNDING.

(a) APPLICABILITY.—Section 5337(e) of title 49, United States Code, as amended by this Act, shall apply only with respect to fiscal year 2012.

(b) FUNDING.—Notwithstanding section 5338 of title 49, United States Code, as amended by this Act—

(1) of amounts made available under subsection (a)(1) of such section 5338 for fiscal year 2013—

(A) $5,039,661,500 shall be allocated in accordance with section 5336 of such title 49 to provide financial assistance for urbanized areas under section 5307;

(B) $720,190,000 shall be available to provide financial assistance for other than urbanized areas under section 5311 of such title 49, of which not less than $30,000,000 shall be available to carry out section 5311(c)(1) and $20,000,000 shall be available to carry out section 5311(c)(2); and

(C) $1,574,763,500 shall be available to carry out subsection (c) of section 5337 of such title 49;

(2) no amounts made available under subsection (a)(1) of such section 5338 for fiscal year 2013 may be used to carry out section 5337(e) of title 49, United States Code, as amended by this Act;

(3) there are authorized to be appropriated to carry out section 5309 of such title 49, $1,655,000,000 for fiscal year 2013;

(4) there are authorized to be appropriated to carry out section 5307 of such title 49, $203,500,000 for fiscal year 2013, which shall be allocated in accordance with section 5336 of such title 49; and

(5) there are authorized to be appropriated to carry out section 5311 of such title 49, $96,500,000 for fiscal year 2013, which shall be apportioned in accordance with section 5311(c).

(c) HIGH INTENSITY FIXED GUIDEWAY STATE OF GOOD REPAIR.—Notwithstanding section 5337(c)(1) of title 49, United States Code, as amended by this Act, for fiscal year 2013, $1,574,763,500 shall be apportioned to recipients in accordance with section 5337(c) of title 49, United States Code.

SA 1769. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REGULATIONS REGARDING POOLS.

(a) DEFINITIONS.—

(1) COVERED REGULATION.—The term ''covered regulation'' means—

(A) the portions of part 35 of title 28, Code of Federal Regulations, that were added under the final rule issued by the Attorney General entitled ''Nondiscrimination on the Basis of Disability in State and Local Government Services'', 75 Fed. Reg. 56164 (September 15, 2010); and

(B) the portions of part 36 of title 28, Code of Federal Regulations, that were added under the final rule issued by the Attorney General entitled ''Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities'', 75 Fed. Reg. 56236 (September 15, 2010).

(2) POOL.—The term ''pool'' means a swimming pool, wading pool, sauna, steam room, spa, wave pool, lazy river, sand bottom pool, or other water amusement, within the meaning of part 36 of title 28, Code of Federal Regulations.

(3) PUBLIC ACCOMMODATION.—The term ''public accommodation'' has the meaning given the term in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(4) PUBLIC ENTITY.—The term ''public entity'' has the meaning given the term in section 201 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131).

(b) DELAYED EFFECTIVE DATE.—Neither the Attorney General nor any official of the Federal Government shall have authority, under title II or III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq., 12181 et seq.) or any other provision of Federal law, to administer or enforce a covered regulation, with respect to a pool at a public accommodation, or a pool provided by a public entity and covered by such title II, earlier than 1 year after the date of enactment of this Act.

SA 1770. Mr. SCHUMER (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In section 5340(d)(5) of title 49, United States Code, as amended by section 20030, strike the second and third sentences and insert the following: ''Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336 and shall be made available for grants under section 5307.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 1, 2012, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 1, 2012, at 10 a.m., to conduct a committee hearing entitled ''The Semiannual Monetary Policy Report to Congress.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 1, 2012, at 10 a.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''Oversight of the Cruise Ship Industry: Are Current Regulations Sufficient to Protect Pasengers and the Environment?''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 1, 2012, at 10 a.m., to hold a hearing entitled, ''Syria: The Crisis and Its Implications.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on March 1, 2012, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 1, 2012, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTABLISHING THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

AUTHORIZING THE USE OF THE ROTUNDA AND EMANCIPATION HALL

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of S. Con. Res. 35 and S. Con. Res. 36.

The PRESIDING OFFICER. The clerk will report the concurrent resolutions by title en bloc.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 35) to establish the Joint Congressional Committee on Inaugural Ceremonies for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013.

A concurrent resolution (S. Con. Res. 36) to authorize the use of the rotunda and Emancipation Hall of the Capitol by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

There being no objection, the Senate proceeded to consider the concurrent resolutions en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolutions be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, with no intervening action or debate, and any statements related to these matters be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 35) was agreed to, as follows:

S. CON. RES. 35

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. ESTABLISHMENT OF JOINT COMMITTEE.

There is established a Joint Congressional Committee on Inaugural Ceremonies (in this resolution referred to as the ''joint committee'') consisting of 3 Senators and 3 Members of the House of Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively. The joint committee is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on January 21, 2013.

SEC. 2. SUPPORT OF THE JOINT COMMITTEE.

The joint committee—

(1) is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between the joint committee and the heads of those departments and agencies, in connection with the inaugural proceedings and ceremonies; and

(2) may accept gifts and donations of goods and services to carry out its responsibilities.

The concurrent resolution (S. Con. Res. 36) was agreed to, as follows:

S. CON. RES. 36

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF THE ROTUNDA AND EMANCIPATION HALL OF THE CAPITOL.

The rotunda and Emancipation Hall of the United States Capitol are authorized to be used on January 21, 2013, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

CELEBRATING BLACK HISTORY MONTH

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 387.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 387) celebrating Black History Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 387) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 387

Whereas in 1776, the United States of America was imagined, as stated in the Declaration of Independence, as a new country dedicated to the proposition that ''. . . all Men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the Pursuit of Happiness . . . .'';

Whereas the first Africans were brought involuntarily to the shores of America as early as the 17th century;

Whereas African-Americans suffered enslavement and subsequently faced the injustices of lynch mobs, segregation, and denial of the basic and fundamental rights of citizenship;

Whereas inequalities and injustices in our society still exist today;

Whereas in the face of injustices, people of the United States of good will and of all races distinguished themselves with a commitment to the noble ideals on which the United States was founded and courageously fought for the rights and freedom of African-Americans;

Whereas many African-American men and women worked against racism to achieve success and have made significant contributions to the economic, educational, political, artistic, literary, scientific, and technological advancements of the United States;

Whereas the greatness of the United States is reflected in the contributions of African-Americans in all walks of life throughout the history of the United States;

Whereas Lieutenant Colonel Allen Allensworth, Muhammad Ali, Constance Baker Motley, James Baldwin, James Beckwourth, Clara Brown, Ralph Bunche, Shirley Chisholm, Frederick Douglass, W. E. B. Du Bois, Ralph Ellison, Alex Haley, Dorothy Height, Lena Horne, Charles Hamilton Houston, Mahalia Jackson, Martin Luther King, Jr., the Tuskeegee Airmen, Thurgood Marshall, Rosa Parks, Bill Pickett, Jackie Robinson, Sojourner Truth, and Harriet Tubman each lived a life of incandescent greatness, while many African-Americans lived, toiled, and died in obscurity, never achieving the recognition they deserved and yet paved the way for future generations to succeed;

Whereas, pioneers such as Maya Angelou, Arthur Ashe, Jr., Carol Moseley Braun, Ronald Brown, Ursula Burns, Kenneth Chenault, David Dinkins, Alexis Herman, Mae Jemison, Earvin ''Magic'' Johnson, Sheila Johnson, James Earl Jones, David Paterson, Marian Wright Edelman, Alice Walker, and Oprah Winfrey have all benefitted from their forefathers and have served as great role models and leaders for future generations to come;

Whereas on November 4, 2008, the people of the United States elected an African-American man, Barack Obama, as President of the United States;

Whereas African-Americans continue to serve the United States at the highest levels of government and military;

Whereas on February 22, 2012, President Barack Obama and First Lady Michelle Obama, along with former First Lady Laura Bush, celebrated the groundbreaking of the National Museum of African American History and Culture on the National Mall in Washington, DC;

Whereas the birthdays of Abraham Lincoln and Frederick Douglass inspired the creation of Negro History Week, the precursor to Black History Month;

Whereas Negro History Week represented the culmination of the efforts of Dr. Carter G. Woodson to enhance knowledge of black history through the Journal of Negro History, published by the Association for the Study of African American Life and History, which was founded by Dr. Woodson and Jesse E. Moorland;

Whereas Black History Month, celebrated during the month of February, dates back to 1926 when Dr. Woodson set aside a special period of time in February to recognize the heritage and achievement of black Americans;

Whereas Dr. Woodson, the ''Father of Black History'', stated, ''We have a wonderful history behind us. . . . If you are unable to demonstrate to the world that you have this record, the world will say to you, 'You are not worthy to enjoy the blessings of democracy or anything else.' '';

Whereas since the founding, the United States has been an imperfect work in making progress towards noble goals; and

Whereas the history of the United States is the story of a people regularly affirming high ideals, striving to reach those ideals but often failing, and then struggling to come to terms with the disappointment of that failure before committing to trying again: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges that all of the people of the United States are the recipients of the wealth of history given to us by black culture;

(2) recognizes the importance of Black History Month as an opportunity to reflect on the complex history of the United States, while remaining hopeful and confident about the path that lies ahead;

(3) acknowledges the significance of Black History Month as an important opportunity to recognize the tremendous contributions of

African-Americans to the history of the United States;

(4) encourages the celebration of Black History Month to provide a continuing opportunity for all people in the United States to learn from the past and to understand the experiences that have shaped the United States; and

(5) agrees that while the United States began in division, the United States must now move forward with purpose, united tirelessly as one Nation, indivisible, with liberty and justice for all, and to honor the contribution of all pioneers in this country who help ensure the legacy of these great United States.

COMMEMORATING THE 200TH ANNIVERSARY OF THE WAR OF 1812 AND ''THE STAR SPANGLED BANNER''

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 388.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 388) commemorating the 200th anniversary of the War of 1812 and ''The Star Spangled Banner,'' and recognizing the historical significance, heroic human endeavor, and sacrifice of the United States Army, Navy, Marine Corps, and Revenue Marine Service, and State militias, during the War of 1812.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 388) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 388

Whereas the period beginning in 2012 and ending in 2015 marks the bicentennial celebration of the War of 1812 and ''The Star Spangled Banner'';

Whereas the War of 1812, which has been referred to as the ''Second War of Independence'', confirmed the independence of the United States from Great Britain in the eyes of the world and shaped the expansion and growth of the United States in later decades;

Whereas the United States declared war on Great Britain on June 18, 1812, to redress wrongs including—

(1) the impressment of United States sailors;

(2) the violation of the neutrality rights of the United States; and

(3) the violation of the territorial waters of the United States;

Whereas, despite the vastly superior size of the military of Great Britain, the United States Army, Navy, Marine Corps, and Revenue Marine Service (a predecessor of the United States Coast Guard), and State militias (the predecessors of the National Guard), won a number of significant victories, ensuring that the liberties won by the United States during the Revolutionary War were not lost;

Whereas major battles of the War of 1812 that were fought on the water, including the battle between U.S.S. *Constitution* and H.M.S. *Guerriere*, the Battle of Lake Champlain, and victories on the Great Lakes, showcased the might, bravery, and war-fighting tactics of the United States maritime forces;

Whereas the decisive victory of Oliver Hazard Perry over a British fleet near Put-In-Bay, Ohio in the Battle of Lake Erie ensured that—

(1) the United States gained control of the Great Lakes; and

(2) portions of the Old Northwest Territory, such as Ohio, Michigan, Illinois, Minnesota, and Wisconsin, remained part of the United States;

Whereas State militias, the oldest component of the Armed Forces of the United States, answered the call to service, defending their communities and their country from aggression by Great Britain;

Whereas United States forces seized the city of Mobile from Spanish control in 1813, built Fort Bowyer to protect the city, and in 1814 successfully repelled a vastly larger British force from the city, resulting in Mobile becoming one of the few permanent land concessions gained by the United States during the War of 1812;

Whereas Great Britain unleashed grievous attacks on the capital of the United States, Washington, D.C., burning to the ground the United States Capitol Building, the White House, and much of the rest of the city;

Whereas, after 2 ½ years of conflict, the British Royal Navy sailed up the Chesapeake Bay in an attempt to capture Baltimore, Maryland;

Whereas United States forces at Fort McHenry, stationed in the outer harbor of Baltimore, Maryland under the command of Brevet Lieutenant Colonel George Armistead, withstood nearly 25 hours of bombardment by the British forces and refused to yield, thereby forcing the British to give up the invasion and withdraw;

Whereas Francis Scott Key, a United States lawyer who was being held by the British on board a United States flag-of-truce vessel in the harbor, saw ''by the dawn's early light'', as Key would later write, an American flag still flying over Fort McHenry after the horrific attack;

Whereas Francis Scott Key immortalized the event in a poem entitled ''Defense of Fort McHenry'', which was later set to music and called ''The Star-Spangled Banner'';

Whereas ''The Star-Spangled Banner'' became the national anthem of the United States on March 3, 1931, when President Herbert Hoover signed Public Law 71–823;

Whereas General Andrew Jackson, who would later become the seventh President of the United States, won the Battle of Horsehoe Bend and then triumphed in the decisive Battle of New Orleans, which, although fought after the signing of the Treaty of Ghent, was a great source of pride to the young United States and provided momentum for growth and prosperity in the years that would follow;

Whereas, since 1916, the people of the United States have entrusted the National Park Service with the care of national parks and sites of historical significance to the country, including Fort McHenry and more than 30 other sites and National Heritage Areas that tell the story of the War of 1812;

Whereas the diverse historic sites relating to the War of 1812 include homes, battlefields, and landscapes that highlight the contributions made by a wide range of people in the United States during the war;

Whereas one such historic site is the Fort McHenry National Monument and Historic Shrine, the birthplace of ''The Star Spangled Banner'', where the symbols of both the flag and the national anthem of the United States come together;

Whereas the people of the United States are grateful for the rights defended through hard fighting during the War of 1812 by the United States Army, Navy, Marine Corps, and Revenue Marine Service, and State militias, including the protection of United States citizens at home and abroad, unrestricted trade, free and open ports, and the protection of the territorial integrity of the United States against aggression; and

Whereas, during the bicentennial years of the War of 1812 and ''The Star Spangled Banner'', it is fitting that the bravery and steadfast determination of the United States land and maritime forces be celebrated by the grateful people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the memory of all the people of the United States who came together during the War of 1812, particularly the fallen heroes who gave their lives during the ''Second War of Independence'';

(2) commends the men and women of the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, and the State National Guards, who preserve the ideals of freedom, democracy, and the pursuit of happiness that were guaranteed by the victories of the War of 1812;

(3) congratulates the Armed Forces of the United States, the National Parks Service, the Maryland War of 1812 Bicentennial Commission, and all other organizations and individuals who are involved in preserving and promoting the history of this great country, and supports their commemoration of the War of 1812 and ''The Star Spangled Banner''; and

(4) calls on all people of the United States to join in the commemoration of the bicentennial of the War of 1812 and ''The Star Spangled Banner'' in events throughout the United States, to celebrate that at the end of the war, as Francis Scott Key wrote, ''our flag was still there''.

ORDERS FOR FRIDAY, MARCH 2, 2012

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Friday, March 2 at 10 a.m.; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of S. 1813.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, tomorrow we will continue working on a path forward on the Transportation bill. There will be no rollcall votes, as I previously announced. There be no rollcall votes until Tuesday morning.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:40 p.m., adjourned until Friday, March 2, 2012, at 10 a.m.