

[(2) CONSULTATION WITH GOVERNMENTS.—

[(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.

[(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

[(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

[(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

[(4) INCLUDED PROJECTS.—

[(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

[(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

[(C) PROJECTS UNDER CHAPTER 2.—

[(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.

[(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

[(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

[(i) consistent with the statewide transportation plan developed under this section for the State;

[(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and

[(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under such Act.

[(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

[(F) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

[(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

[(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).

[(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.

[(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title and chapter 53 of title 49.

[(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with pop-

ulations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

[(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

[(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 134.

[(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

[(h) FUNDING.—Funds set aside pursuant to section 104(f) of this title and section 5305(g) of title 49, shall be available to carry out this section.

[(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 134, and sections 5303 and 5304 of title 49, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 134, and sections 5303 and 5304 of title 49, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 134 and sections 5303 and 5304 of title 49, as appropriate.

[(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.

[§ 136. Control of junkyards

[(a) The Congress hereby finds and declares that the establishment and use and maintenance of junkyards in areas adjacent to the Interstate System and the primary system should be controlled in order to protect the public investment in such highways, to pro-

mote the safety and recreational value of public travel, and to preserve natural beauty.

[(b) Federal-aid highway funds apportioned on or after January 1, 1968, to any State which the Secretary determines has not made provision for effective control of the establishment and maintenance along the Interstate System and the primary system of outdoor junkyards, which are within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of the system, shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control. Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States. Whenever he determines it to be in the public interest, the Secretary may suspend, for such periods as he deems necessary, the application of this subsection to a State.

[(c) Effective control means that by January 1, 1968, such junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main traveled way of the system, or shall be removed from sight.

[(d) The term "junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

[(e) The term "automobile graveyard" shall mean any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

[(f) The term "junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

[(g) Notwithstanding any provision of this section, junkyards, auto graveyards, and scrap metal processing facilities may be operated within areas adjacent to the Interstate System and the primary system which are within one thousand feet of the nearest edge of the right-of-way and which are zoned industrial under authority of State law, or which are not zoned under authority of State law, but are used for industrial activities, as determined by the several States subject to approval by the Secretary.

[(h) Notwithstanding any provision of this section, any junkyard in existence on the date of enactment of this section which does not conform to the requirements of this section and which the Secretary finds as a practical matter cannot be screened, shall not be required to be removed until July 1, 1970.

[(i) The Federal share of landscaping and screening costs under this section shall be 75 per centum.

[(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully established under State law. The Federal share of such compensation shall be 75 per centum.

[(k) All public lands or reservations of the United States which are adjacent to any portion of the interstate and primary systems

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shall be effectively controlled in accordance with the provisions of this section.

[(l) Nothing in this section shall prohibit a State from establishing standards imposing stricter limitations with respect to outdoor junkyards on the Federal-aid highway systems than those established under this section.

[(m) There is authorized to be appropriated to carry out this section, out of any money in the Treasury not otherwise appropriated, not to exceed \$20,000,000 for the fiscal year ending June 30, 1966, not to exceed \$20,000,000 for the fiscal year ending June 30, 1967, not to exceed \$3,000,000 for the fiscal year ending June 30, 1970, not to exceed \$3,000,000 for the fiscal year ending June 30, 1971, not to exceed \$3,000,000 for the fiscal year ending June 30, 1972, and not to exceed \$5,000,000 for the fiscal year ending June 30, 1973. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967.]

§ 134. Metropolitan transportation planning

Metropolitan transportation planning programs funded under section 104(f) shall be carried out in accordance with the metropolitan planning provisions of section 5203 of title 49.

§ 135. Statewide transportation planning

Statewide transportation planning programs funded under sections 104(f) and 505 shall be carried out in accordance with the metropolitan planning provisions of section 5204 of title 49.

§ 137. Fringe and corridor parking facilities

(a) The Secretary may approve as a project on a Federal-aid highway the acquisition of land adjacent to the right-of-way outside a central business district, as defined by the Secretary, and the construction of publicly owned parking facilities thereon or within such right-of-way, including the use of the air space above and below the established grade line of the highway pavement, to serve an urban area of fifty thousand population or more. Such parking facility shall be located and designed in conjunction with existing or planned public transportation facilities. In the event fees are charged for the use of any such facility, the rate thereof shall not be in excess of that required for maintenance and operation (including compensation to any person for operating such facility). *The addition of electric vehicle charging stations to new or previously funded parking facilities shall be eligible for funding under this section.*

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§ 138. Preservation of parklands

(a) DECLARATION OF POLICY.—It is declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites. The Secretary of Transportation shall cooperate and consult with the Secretaries of

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the Interior, Housing and Urban Development, and Agriculture, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed. After the effective date of the Federal-Aid Highway Act of 1968, the Secretary shall not approve any program or project (other than any project for a [park road or parkway under section 204 of this title] *Federal lands transportation facility under section 203*) which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use. In carrying out the national policy declared in this section the Secretary, in cooperation with the Secretary of the Interior and appropriate State and local officials, is authorized to conduct studies as to the most feasible Federal-aid routes for the movement of motor vehicular traffic through or around national parks so as to best serve the needs of the traveling public while preserving the natural beauty of these areas.

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(c) *ELIMINATION OF DUPLICATION FOR HISTORIC SITES AND PROPERTIES.*—The requirements of this section shall be considered to be satisfied for an historic site or property where its treatment has been agreed upon in a memorandum of agreement by invited and mandatory signatories, including the Advisory Council on Historic Preservation, if participating, in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

§ 139. Efficient environmental reviews for project decision-making

(a) * * *

(b) *APPLICABILITY.*—

(1) * * *

(2) *FLEXIBILITY.*—Any authorities granted in this section may be exercised, and any requirements established in this section may be satisfied, for a project, class of projects, or program of projects.

(3) *FUNDING THRESHOLD.*—The Secretary's approval of a project receiving funds under this title or under chapter 53 of title 49 shall not be considered a Federal action for the purposes of the National Environmental Policy Act of 1969 if such funds—

(A) constitute 15 percent or less of the total estimated project costs; or

(B) are less than \$10,000,000.

(4) *PROGRAMMATIC COMPLIANCE.*—At the request of a State, the Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies

with respect to environmental programs and permits (in lieu of project-by-project reviews).

(c) LEAD AGENCIES.—

(1) FEDERAL LEAD AGENCY.—The Department of Transportation shall be the Federal lead agency in the environmental review process for a project. *If the project requires approval from more than one modal administration within the Department, the Secretary shall designate a single modal administration to serve as the Federal lead agency for the Department in the environmental review process for the project.*

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(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under this title or chapter 53 of title 49 *or other approvals by the Secretary* for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

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[(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.]

(5) ADOPTION AND USE OF DOCUMENTS.—*Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency in making any approval of a project subject to this section as the document required to be completed under the National Environmental Policy Act of 1969.*

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(d) PARTICIPATING AGENCIES.—

(1) * * *

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[(4) EFFECT OF DESIGNATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

[(A) supports a proposed project; or

[(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.]

(4) EFFECT OF DESIGNATION.—

(A) REQUIREMENT.—*A participating agency shall comply with the requirements of this section and any schedule established under this section.*

(B) *IMPLICATION.*—Designation as a participating agency under this subsection shall not imply that the participating agency—

- (i) supports a proposed project; or
- (ii) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

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[(7) *CONCURRENT REVIEWS.*—Each Federal agency shall, to the maximum extent practicable—

[(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

[(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.]

(7) *CONCURRENT REVIEWS.*—Each participating agency and cooperating agency shall—

(A) carry out obligations of that agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(e) *PROJECT INITIATION.*—The project sponsor shall notify the Secretary of the type of work, termini, length and general location of the proposed project, together with a statement of any Federal approvals anticipated to be necessary for the proposed project, for the purpose of informing the Secretary that the environmental review process should be initiated. *The project sponsor may satisfy this requirement by submitting to the Secretary a draft notice for publication in the Federal Register announcing the preparation of an environmental impact statement for the project.*

(f) *PURPOSE AND NEED.*—

(1) * * *

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(4) *ALTERNATIVES ANALYSIS.*—

(A) * * *

[(B) *RANGE OF ALTERNATIVES.*—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.]

(B) *RANGE OF ALTERNATIVES.*—

(i) *IN GENERAL.*—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document

which the lead agency is responsible for preparing for the project.

(ii) **LIMITATION.**—The range of alternatives shall be limited to alternatives that are—

(I) consistent with the transportation mode and general design of the project described in the long-range transportation plan or transportation improvement program prepared pursuant to section 5203 or 5204 of title 49; and

(II) consistent with the funding identified for the project under the fiscal constraint requirements of section 5203 or 5204 of title 49.

(iii) **RESTRICTION.**—A Federal agency may not require the evaluation of any alternative that was evaluated, but not adopted—

(I) in any prior State or Federal environmental document with regard to the applicable long-range transportation plan or transportation improvement program; or

(II) after the preparation of a programmatic or tiered environmental document that evaluated alternatives to the project.

(iv) **LEGAL SUFFICIENCY.**—The evaluation of the range of alternatives shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

[(C) **METHODOLOGIES.**—The lead agency]

(C) **METHODOLOGIES.**—

(i) **IN GENERAL.**—The lead agency also shall determine, [in collaboration with participating agencies at appropriate times during the study process] after consultation with participating agencies as part of the scoping process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

(ii) **COMMENTS.**—Each participating agency shall limit comments on such methodologies to those issues that are within the authority and expertise of such participating agency.

(iii) **STUDIES.**—The lead agency may not conduct studies proposed by any participating agency that are not within the authority or expertise of such participating agency.

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(E) **LIMITATIONS ON THE EVALUATION OF IMPACTS EVALUATED IN PRIOR ENVIRONMENTAL DOCUMENTS.**—

(i) **IN GENERAL.**—The lead agency may not reevaluate, and a Federal agency may not require the reevaluation of, cumulative impacts or growth-inducing impacts where such impacts were previously evaluated in—

(I) a long-range transportation plan or transportation improvement program developed pursuant to section 5203 or 5204 of title 49;

(II) a prior environmental document approved by the Secretary; or

(III) a prior State environmental document approved pursuant to a State law that is substantially equivalent to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(ii) LEGAL SUFFICIENCY.—The evaluation of cumulative impacts and growth inducing impacts shall be deemed legally sufficient if the environmental document complies with the requirements of this paragraph.

(5) EFFECTIVE DECISIONMAKING.—

(A) CONCURRENCE.—At the discretion of the lead agency, a participating agency shall be presumed to concur in the determinations made by the lead agency under this subsection unless the participating agency submits an objection to the lead agency in writing within 30 days after receiving notice of the lead agency's determination and specifies the statutory basis for the objection.

(B) ADOPTION OF DETERMINATION.—If the participating agency concurs or does not object within the 30-day period, the participating agency shall adopt the lead agency's determination for purposes of any reviews, approvals, or other actions taken by the participating agency as part of the environmental review process for the project.

(g) COORDINATION AND SCHEDULING.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—The lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a [project or category of projects] project, category of projects, or program of projects. The coordination plan may be incorporated into a memorandum of understanding.

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[(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, 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) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

[(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agen-

cy that remain outstanding as of the date of the additional notice.

[(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.]

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

(A) PRIOR APPROVAL DEADLINE.—If a participating agency is required to make a determination regarding or otherwise approve or disapprove the project prior to the record of decision or finding of no significant impact of the lead agency, such participating agency shall make such determination or approval not later than 30 days after the lead agency publishes notice of the availability of a final environmental impact statement or other final environmental document, or not later than such other date that is otherwise required by law, whichever occurs first.

(B) OTHER DEADLINES.—With regard to any determination or approval of a participating agency that is not subject to subparagraph (A), each participating agency shall make any required determination regarding or otherwise approve or disapprove the project not later than 90 days after the date that the lead agency approves the record of decision or finding of no significant impact for the project, or not later than such other date that is otherwise required by law, whichever occurs first.

(C) DEEMED APPROVED.—In the event that any participating agency fails to make a determination or approve or disapprove the project within the applicable deadline described in subparagraphs (A) and (B), the project shall be deemed approved by such participating agency, and such approval shall be deemed to comply with the applicable requirements of Federal law.

(D) JUDICIAL REVIEW.—

(i) IN GENERAL.—An approval of a project under subparagraph (C) shall not be subject to judicial review.

(ii) WRITTEN FINDING.—The Secretary may issue a written finding verifying the approval made in accordance with this paragraph.

(h) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) * * *

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(4) ISSUE RESOLUTION.—

(A) * * *

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(C) RESOLUTION FINAL.—

(i) IN GENERAL.—The lead agency and participating agencies may not reconsider the resolution of any issue agreed to by the relevant agencies in a meeting under subparagraph (A).

(ii) COMPLIANCE WITH APPLICABLE LAW.—Any such resolution shall be deemed to comply with applicable

law notwithstanding that the agencies agreed to such resolution prior to the approval of the environmental document.

(i) STREAMLINED DOCUMENTATION AND DECISIONMAKING.—

(1) IN GENERAL.—The lead agency in the environmental review process for a project, in order to reduce paperwork and expedite decisionmaking, shall prepare a condensed final environmental impact statement.

(2) CONDENSED FORMAT.—A condensed final environmental impact statement for a project in the environmental review process shall consist only of—

(A) an incorporation by reference of the draft environmental impact statement;

(B) any updates to specific pages or sections of the draft environmental impact statement as appropriate; and

(C) responses to comments on the draft environmental impact statement and copies of the comments.

(3) TIMING OF DECISION.—Notwithstanding any other provision of law, in conducting the environmental review process for a project, the lead agency shall combine a final environmental impact statement and a record of decision for the project into a single document if—

(A) the alternative approved in the record of decision is either a preferred alternative that was identified in the draft environmental impact statement or is a modification of such preferred alternative that was developed in response to comments on the draft environmental impact statement;

(B) the Secretary has received a certification from a State under section 128, if such a certification is required for the project; and

(C) the Secretary determines that the lead agency, participating agency, or the project sponsor has committed to implement the measures applicable to the approved alternative that are identified in the final environmental impact statement.

(j) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND RE-EVALUATION.—

(1) SUPPLEMENTAL ENVIRONMENTAL REVIEW.—After the approval of a record of decision or finding of no significant impact with regard to a project, an agency may not require the preparation of a subsequent environmental document for such project unless the lead agency determines that—

(A) changes to the project will result in new significant impacts that were not evaluated in the environmental document; or

(B) new information has become available or changes in circumstances have occurred after the lead agency approval of the project that will result in new significant impacts that were not evaluated in the environmental document.

(2) RE-EVALUATIONS.—The Secretary may only require the re-evaluation of a document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

(A) the Secretary determines that the events in paragraph (1)(A) or (1)(B) apply; and

(B) more than 5 years has elapsed since the Secretary's prior approval of the project or authorization of project funding.

(3) CHANGE TO RECORD OF DECISION.—After the approval of a record of decision, the Secretary may not require the record of decision to be changed solely because of a change in the fiscal circumstances surrounding the project.

[(i)] (k) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

[(j)] (l) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

(1) * * *

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(3) [USE OF FEDERAL LANDS HIGHWAY FUNDS] *USE OF TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM FUNDS.*—The Secretary may also use funds made available under [section 204] sections 202 and 203 for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

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[(k)] JUDICIAL REVIEW AND SAVINGS CLAUSE.—

[(1)] JUDICIAL REVIEW.—Except as set forth under subsection (l), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

[(2)] SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

[(3)] LIMITATIONS.—Nothing in this section shall preempt or interfere with—

[(A)] any practice of seeking, considering, or responding to public comment; or

[(B)] any power, jurisdiction, responsibility, or authority that a Federal, State, or local government agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.]

(m) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary, by regulation, shall—

(A) implement this section; and

(B) establish methodologies and procedures for evaluating the environmental impacts, including cumulative impacts and growth-inducing impacts, of transportation projects subject to this section.

(2) *COMPLIANCE WITH APPLICABLE LAW.*—Any environmental document that utilizes the methodologies and procedures established under this subsection shall be deemed to comply with the applicable requirements of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or its implementing regulations; or

(B) any other Federal environmental statute applicable to transportation projects.

[(1)] (n) *LIMITATIONS ON CLAIMS.*—

(1) *IN GENERAL.*—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within [180 days] 90 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

[(2)] *NEW INFORMATION.*—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 180 days after the date of publication of a notice in the Federal Register announcing such action.]

(2) *NEW INFORMATION.*—The preparation of a supplemental environmental impact statement or other environmental document when required by this section shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 90 days after the date of publication of a notice in the Federal Register announcing such action.

(o) *LIMITATIONS ON JUDICIAL RELIEF.*—Notwithstanding any other provision of law, the following limitations shall apply to actions brought before a court in connection with a project under this section:

(1) Venue for any action shall be where the project is located.

(2) A specific property interest impacted by the transportation project in question must exist in order to have standing to bring an action.

(3) No action may be commenced by any person alleging a violation of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), chapters 5 and 7 of title 5, or any other Federal law applicable to the evaluation, avoidance, or mitigation of environmental impacts of the project if such Federal law is identified in the draft environmental

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impact statement, unless such person provided written notice to the lead agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on the draft environmental impact statement; or

(B) any other law with regard to the project unless such person provided written notice to the applicable approving agency of the alleged violation of law, and the facts supporting such claim, during the public comment period on such agency approval.

(4) Elected or appointed officials working for the Government or a State government may not be named in their individual capacities in an action if they are acting within the scope of their official duties.

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§ 142. Public transportation

(a)(1) To encourage the development, improvement, and use of public mass transportation systems operating motor vehicles (other than on rail) on Federal-aid highways for the transportation of passengers (hereafter in this section referred to as "buses"), so as to increase the traffic capacity of the Federal-aid systems for the movement of persons, the Secretary may approve as a project on any Federal-aid system the construction of exclusive or preferential high occupancy vehicle lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities (*which may include electric vehicle charging stations*) to serve high occupancy vehicle and public mass transportation passengers, and sums apportioned under section 104(b) of this title shall be available to finance the cost of projects under this paragraph. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility and the cost of providing shuttle service to and from the facility (including compensation to any person for operating the facility and for providing such shuttle service).

* * * * *

[§ 144. Highway bridge program

[(a) FINDING AND DECLARATION.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be carried out to enable States to improve the condition of their highway bridges over waterways, other topographical barriers, other highways, and railroads through replacement and rehabilitation of bridges that the States and the Secretary determine are structurally deficient or functionally obsolete and through systematic preventive maintenance of bridges.

[(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid highway which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilita-

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tion; and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

[(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal-aid highway, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

[(2) The Secretary may, at the request of a State, inventory bridges, on and off Federal-aid highways, for historic significance.

[(3) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall (A) inventory all those highway bridges on Indian reservation roads and park roads which are bridges over waterways, other topographical barriers, other highways, and railroads, (B) classify them according to serviceability, safety, and essentiality for public use, (C) based on the classification, assign each a priority for replacement or rehabilitation, and (D) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

[(d) PARTICIPATION.—

[(1) BRIDGE REPLACEMENT AND REHABILITATION.—On application by a State or States to the Secretary for assistance for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

- [(A) replacing the bridge with a comparable facility; or
- [(B) rehabilitating the bridge.

[(2) TYPES OF ASSISTANCE.—On application by a State or States to the Secretary, the Secretary may approve Federal assistance for any of the following activities for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c):

- [(A) Painting.
- [(B) Seismic retrofit.
- [(C) Systematic preventive maintenance.
- [(D) Installation of scour countermeasures.
- [(E) Application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions.

[(3) BASIS FOR DETERMINATION.—The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on structurally deficient and functionally obsolete highway bridges in the State.

[(4) SPECIAL RULE FOR SYSTEMATIC PREVENTIVE MAINTENANCE.—Notwithstanding any other provision of this subsection, a State may carry out a project under paragraph (2)(B), (2)(C), or (2)(D) for a highway bridge without regard to whether the bridge is eligible for replacement or rehabilitation under this section.

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[(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized in accordance with this subsection. Each deficient bridge shall be placed into one of the following categories: (1) Federal-aid highway bridges eligible for replacement, (2) Federal-aid highway bridges eligible for rehabilitation, (3) bridges not on Federal-aid highways eligible for replacement, and (4) bridges not on Federal-aid highways eligible for rehabilitation. The deck area of deficient bridges in each category shall be multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary; and the total cost in each State divided by the total cost of the deficient bridges in all States shall determine the apportionment factors. For purposes of the preceding sentence, if a State transfers funds apportioned to the State under this section in a fiscal year beginning after September 30, 1997, to any other apportionment of funds to such State under this title, the total cost of deficient bridges in such State and in all States to be determined for the succeeding fiscal year shall be reduced by the amount of such transferred funds. No State shall receive more than 10 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually. Funds apportioned under this section shall be available for expenditure for the period specified in section 118(b)(2). Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection. The use of funds authorized under this section to carry out a project for the seismic retrofit of a bridge shall not affect the apportionment of funds under this section.

[(f) BRIDGE SET-ASIDES.—

[(1) DESIGNATED PROJECTS.—

[(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of the fiscal years 2006 through 2009, all but \$100,000,000 shall be apportioned as provided in subsection (e). Such \$100,000,000 shall be available as follows:

[(i) \$12,500,000 per fiscal year for the Golden Gate Bridge.

[(ii) \$18,750,000 per fiscal year for the construction of a bridge joining the Island of Gravina to the community of Ketchikan in Alaska.

[(iii) \$12,500,000 per fiscal year to the State of Nevada for construction of a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area.

[(iv) \$12,500,000 per fiscal year to the State of Missouri for construction of a structure over the Mississippi River to connect the City of St. Louis, Missouri, to the State of Illinois.

[(v) \$12,500,000 per fiscal year for replacement and reconstruction of State maintained bridges in the State of Oklahoma.

[(vi) \$4,500,000 per fiscal year for replacement of the Missisquoi Bay Bridge and the removal of the Missisquoi Bay causeway, Vermont.

[(vii) \$8,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Vermont.

[(viii) \$8,750,000 per fiscal year for design, planning, and right-of-way acquisition for the Interstate Route 74 bridge from Bettendorf, Iowa, to Moline, Illinois.

[(ix) \$10,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Oregon.

[(B) GRAVINA ACCESS SCORING.—The project described in subparagraph (A)(ii) shall not be counted for purposes of the reduction set forth in the fourth sentence of subsection (e).

[(C) PERIOD OF AVAILABILITY.—Amounts made available to a State under this paragraph shall remain available until expended.

[(2) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

[(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2005 through 2009 shall be expended for projects to replace, rehabilitate, paint, perform systematic preventive maintenance or seismic retrofit of, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, or install scour countermeasures to, highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

[(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditure for bridges not on a Federal-aid highway under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.

[(g) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525-533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters (1) which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce, and (2) which are (a) not tidal, or (b) if tidal, used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

[(h) INVENTORIES AND REPORTS.—The Secretary shall—

[(1) report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and

Infrastructure of the House of Representatives on projects approved under this section;

[(2) annually revise the current inventories authorized by subsections (b) and (c) of this section;

[(3) report to such committees on such inventories; and

[(4) report to such committees such recommendations as the Secretary may have for improvements of the program authorized by this section.

Such reports shall be submitted to such committees biennially.

[(i) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

[(j) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

[(k) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section 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. 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 necessary bridge replacement or rehabilitation project. 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.

[(l) REPLACEMENT OF DESTROYED BRIDGES AND FERRYBOAT SERVICE.—

[(1) GENERAL RULE.—Notwithstanding any other provision of this section or of any other provision of law, a State may utilize any of the funds provided under this section to construct any bridge which—

[(A) replaces any low water crossing (regardless of the length of such low water crossing),

[(B) replaces any bridge which was destroyed prior to 1965,

[(C) replaces any ferry which was in existence on January 1, 1984, or

[(D) replaces any road bridges rendered obsolete as a result of United States Corps of Engineers flood control or

channelization projects and not rebuilt with funds from the United States 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 such construction.

[(m) PROGRAM 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 which 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, any amount expended after the date of the enactment of this subsection from State and local sources for such project in excess of 20 percent of the cost of construction thereof may be credited to the non-Federal share of the cost of the projects in such State which are eligible for Federal funds under this section. Such crediting shall be in accordance with such procedures as the Secretary may establish.

[(n) HISTORIC BRIDGE PROGRAM.—

[(1) COORDINATION.—The Secretary shall, in cooperation with the States, implement the programs described in this section in a manner that encourages the inventory, retention, rehabilitation, adaptive reuse, and future study of historic bridges.

[(2) STATE INVENTORY.—The Secretary shall require each State to complete an inventory of all bridges on and off Federal-aid highways to determine their historic significance.

[(3) ELIGIBILITY.—Reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of historic bridges shall be eligible as reimbursable project costs under this title (including this section) if the load capacity and safety features of the bridge are adequate to serve the intended use for the life of the bridge; except that in the case of a bridge which is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this subsection shall not exceed the estimated cost of demolition of such bridge.

[(4) PRESERVATION.—Any State which proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the bridge available for donation to a State, locality, or responsible private entity if such State, locality, or responsible entity enters into an agreement to—

[(A) maintain the bridge and the features that give it its historic significance; and

[(B) assume all future legal and financial responsibility for the bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

Costs incurred by the State to preserve the historic bridge, including funds made available to the State, locality, or private entity to enable it to accept the bridge, shall be eligible as re-

imbursable project costs under this chapter up to an amount not to exceed the cost of demolition. Any bridge preserved pursuant to this paragraph shall thereafter not be eligible for any other funds authorized pursuant to this title.

[(5) HISTORIC BRIDGE DEFINED.—As used in this subsection, "historic bridge" means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

[(o) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—A project not on a Federal-aid highway under this section shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.

[(p) As used in this section the term "rehabilitate" in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

[(q) ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

[(r) FEDERAL SHARE.—

[(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be determined under section 120(b).

[(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be determined under section 120(a).]

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§ 147. Construction of ferry boats and ferry terminal facilities

(a) * * *

(b) FEDERAL SHARE.—The Federal share of the cost of construction of [ferry boats, ferry terminals, and ferry maintenance facilities] *ferry boats and ferry terminals* under this section shall be 80 percent.

[(c) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this section to those ferry systems, and public entities responsible for developing ferries, that—

[(1) provide critical access to areas that are not well-served by other modes of surface transportation;

[(2) carry the greatest number of passengers and vehicles;

or
[(3) carry the greatest number of passengers in passenger-only service.

[(d) SET-ASIDE FOR PROJECTS ON NHS.—

[(1) IN GENERAL.—\$20,000,000 of the amount made available to carry out this section for each of fiscal years 2005 through 2009 shall be obligated for the construction or refurbishment of

bishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

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

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

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

[(e) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b), funds made available to carry out this section shall remain available until expended.]

(c) APPORTIONMENT OF FUNDS.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the construction of ferry boats and ferry terminal facilities for each fiscal year among eligible States in the following manner:

(1) 35 percent based on the total annual number of vehicles carried by ferry systems operating in each eligible State.

(2) 35 percent based on the total annual number of passengers (including passengers in vehicles) carried by ferry systems operating in each eligible State.

(3) 30 percent based on the total nautical route miles serviced by ferry systems operating in each eligible State.

(d) ELIGIBLE STATE DEFINED.—In this section, the term "eligible State" means a State that has a ferry system operating in the State or between the State and another State.

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

[\S 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—

[(A) on which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for those functional classes of roadway; or

[(B) that will likely have increases in traffic volume that are likely to create an accident rate for fatalities and incapacitating injuries that exceeds the statewide average for those functional classes of roadway.

[(2) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term "highway safety improvement program" means the program carried out under this section.

[(3) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

[(A) IN GENERAL.—The term “highway safety improvement project” means a project described in the State strategic highway safety plan that—

[(i) corrects or improves a hazardous road location or feature; or

[(ii) addresses a highway safety problem.

[(B) INCLUSIONS.—The term “highway safety improvement project” includes a project for one 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, pedestrians, and the disabled.

[(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents.

[(v) An improvement for pedestrian or bicyclist safety or safety of the disabled.

[(vi) Construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings.

[(vii) Construction of a railway-highway crossing safety feature, including installation of protective devices.

[(viii) The conduct of a model traffic enforcement activity at a railway-highway crossing.

[(ix) Construction of a traffic calming feature.

[(x) Elimination of a roadside obstacle.

[(xi) Improvement of highway signage and pavement markings.

[(xii) Installation of a priority control system for emergency vehicles at signalized intersections.

[(xiii) Installation of a traffic control or other warning device at a location with high accident potential.

[(xiv) Safety-conscious planning.

[(xv) Improvement in the collection and analysis of crash data.

[(xvi) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety.

[(xvii) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators.

[(xviii) The addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife.

[(xix) Installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

[(xx) Construction and yellow-green signs at pedestrian-bicycle crossings and in school zones.

[(xxi) Construction and operational improvements on high risk rural roads.

[(4) 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 a project to promote the awareness of the public and educate the public concerning highway safety matters (including motorcyclist safety) and a project to enforce highway safety laws.

[(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “State highway safety improvement program” means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(g).

[(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term “State strategic highway safety plan” means a plan developed by the 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) persons responsible for administering section 130 at the State level;

[(vi) representatives conducting Operation Life-saver;

[(vii) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;

[(viii) motor vehicle administration agencies; and

[(ix) other major State and local safety stakeholders;

[(B) analyzes and makes effective use of State, regional, or local crash 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, public roads;

[(E) considers the results of State, regional, or local transportation and highway safety planning processes;

[(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

[(G) is approved by the Governor of the State or a responsible State agency; and

[(H) is consistent with the requirements of section 135(g).

[(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 public roads.

[(c) ELIGIBILITY.—

[(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

[(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

[(B) produces a program of projects or strategies to reduce identified safety problems;

[(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and

[(D) submits to the Secretary an annual report that—

[(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and

[(ii) contains an assessment of—

[(I) potential remedies to hazardous locations identified;

[(II) estimated costs associated with those remedies; and

[(III) impediments to implementation other than cost associated with those remedies.

[(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

[(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

[(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 motor-

cyclists), bicyclists, pedestrians, and other highway users; and

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

[(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 traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) 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;

[(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, the disabled, and other highway users; and

[(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;

[(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash 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) ELIGIBLE PROJECTS.—

[(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) 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 (e), 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 their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

[(e) 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)(5) 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; and

[(B) the State has met the State's infrastructure safety needs relating to highway safety improvement projects.

[(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 this section.

[(f) HIGH RISK RURAL ROADS.—

[(1) IN GENERAL.—After making an apportionment under section 104(b)(5) for a fiscal year beginning after September 30, 2005, the Secretary shall ensure, from amounts made available to carry out this section for such fiscal year, that a total of \$90,000,000 of such apportionment is set aside by the States, proportionally according to the share of each State of the total amount so apportioned, for use only for construction and operational improvements on high risk rural roads.

[(2) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project under this section if the State certifies to the Secretary that the State has met all of State needs for construction and operational improvements on high risk rural roads.

[(g) REPORTS.—

[(1) IN GENERAL.—A State shall submit to the Secretary a report that—

[(A) describes progress being made to implement highway safety improvement projects under this section;

[(B) assesses the effectiveness of those improvements; and

[(C) describes the extent to which the improvements funded under this section contribute to the goals of—

[(i) reducing the number of fatalities on roadways;

[(ii) reducing the number of roadway-related injuries;

[(iii) reducing the occurrences of roadway-related crashes;

[(iv) mitigating the consequences of roadway-related crashes; and

[(v) reducing the occurrences of crashes at railway-highway crossings.

[(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

[(3) TRANSPARENCY.—The Secretary shall make reports submitted under subsection (c)(1)(D) available to the public through—

[(A) the Web site 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 directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), 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 such reports, surveys, schedules, lists, or other data.

[(h) 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)(5) shall be 90 percent.]

§ 148. Highway safety improvement program

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

(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “highway safety improvement program” means the program carried out under this section.

(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term “highway safety improvement project” means a project consistent with an applicable State strategic highway safety plan that—

(A) corrects or improves a roadway feature that constitutes a hazard to any road users; or

(B) addresses any other highway safety problem.

(3) PROJECT TO MAINTAIN MINIMUM LEVELS OF RETROREFLECTIVITY.—The term “project to maintain minimum levels of retroreflectivity” means a project undertaken pursuant to the provisions of the Manual on Uniform Traffic Control Devices that require the use of an assessment or management method designed to maintain highway sign or pavement marking retroreflectivity at or above minimum levels prescribed in the Manual.

(4) ROAD USERS.—The term “road users” means motor vehicle drivers and passengers, public transportation operators and users, truck drivers, bicyclists, motorcyclists, and pedestrians, including persons with disabilities.

(5) SAFETY DATA.—The term “safety data” includes crash, roadway, driver licensing, and traffic data with respect to all

public roads and, for highway-rail grade crossings, data on the characteristics of highway and train traffic.

(6) 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) projects consistent with an applicable State strategic highway safety plan that promote the awareness of the public and educate the public concerning highway safety matters (including motorcycle safety);

(ii) projects to enforce highway safety laws; and

(iii) projects to provide infrastructure and equipment to support emergency services.

(7) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term “State highway safety improvement program” means a program of highway safety improvement projects carried out as part of the statewide transportation improvement program under section 5204(g) of title 49.

(8) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term “State strategic highway safety plan” means a comprehensive, data-driven safety plan developed in accordance with subsection (c)(2).

(b) IN GENERAL.—The Secretary shall carry out a highway safety improvement program that is consistent with achieving a significant reduction in traffic fatalities and serious injuries on all public roads.

(c) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program that—

(A) includes a set of projects that are consistent with the State strategic highway safety plan of the State;

(B) satisfies the requirements of this section; and

(C) is consistent with the State’s statewide transportation improvement program under section 5204(g) of title 49.

(2) STRATEGIC HIGHWAY SAFETY PLAN.—As part of the State highway safety improvement program of the State, each State shall have in effect, update at least every 2 years, and submit to the Secretary a State strategic highway safety plan 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) representatives of entities conducting a Federal or State motor carrier safety program;

(vi) motor vehicle administration agencies;

(vii) a highway-rail grade crossing safety representative of the Governor of the State; and

(viii) other major Federal, State, tribal, regional, and local safety stakeholders;

(B) is approved by the Governor of the State or a responsible State agency;

(C) defines State safety goals, including with respect to performance measures established under section 5206 of title 49;

(D) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety (including integrated, interoperable emergency communications) as key factors in evaluating highway projects;

(E) analyzes and makes effective use of State, regional, and local safety data, including data from the safety data system required under subsection (e);

(F) considers the results of Federal, State, regional, and local transportation and highway safety planning processes; and

(G) considers the safety needs of, and high-fatality segments of, public roads.

(3) IMPLEMENTATION.—

(A) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program of the State, each State shall, including through use of the safety data system required under subsection (e)—

(i) identify roadway features that constitute a hazard to road users;

(ii) identify highway safety improvement projects on the basis of crash history (including crash rates), crash potential, or other data-supported means;

(iii) establish the relative severity of the risks of roadway features based on crash, injury, fatality, traffic volume, and other relevant data (including the number and rates of crashes, injuries, and fatalities);

(iv) identify the 100 most dangerous roads in the State, including specific intersections and sections of roads, based on the risk factors described in clause (iii);

(v) consider whether highway safety improvement projects maximize opportunities to advance safety; and

(vi) in conjunction with the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration, evaluate the progress made each year in achieving State safety goals identified in the State strategic highway safety plan.

(B) SCHEDULE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—As part of the State highway safety improvement program of the State, each State shall, including through use of the safety data system required under subsection (e)—

(i) identify highway safety improvement projects;

(ii) determine priorities for the correction of roadway features that constitute a hazard to road users as identified through safety data analysis; and

(iii) establish and implement a schedule of highway safety improvement projects to address roadway features identified as constituting a hazard to road users.

(4) ELIGIBLE PROJECTS.—

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

(i) any highway safety improvement project on any public road or publicly owned pathway or trail;

(ii) any project to put in effect or improve the safety data system required under subsection (e), without regard to whether the project is included in an applicable State strategic highway safety plan;

(iii) any project to maintain minimum levels of retroreflectivity with respect to a public road, without regard to whether the project is included in an applicable State strategic highway safety plan;

(iv) any project for 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" (Publication number FHWA RD-01-103), or any successor publication; or

(v) as provided in subsection (d), other projects.

(B) USE OF OTHER FUNDING FOR SAFETY IMPROVEMENT PROJECTS.—

(i) 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.

(ii) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using, for a highway safety improvement project, funds made available under other provisions of this title (except a provision that specifically prohibits that use).

(C) AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.—

(i) PROHIBITION.—A State may not obligate funds apportioned to the State under section 104(b) to carry out any program to purchase, operate, or maintain an automated traffic enforcement system.

(ii) AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.—In this subparagraph, the term "automated traffic enforcement system" means automated technology that monitors compliance with traffic laws.

(5) UPDATED STATE STRATEGIC HIGHWAY SAFETY PLAN REQUIRED.—

(A) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) for the second fiscal year beginning after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012 only

if the State has in effect and has submitted to the Secretary an updated State strategic highway safety plan that satisfies requirements under this subsection.

(B) TRANSITION.—Before the second fiscal year beginning after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, a State may obligate funds apportioned to the State under section 104(b)(5) in a manner consistent with a State strategic highway safety plan of the State developed before such date of enactment.

(d) FLEXIBLE FUNDING.—To further the implementation of a State strategic highway safety plan and the achievement of performance measures established under section 5206 of title 49, a State may use not more than 10 percent of the funds apportioned to the State under section 104(b)(5) for a fiscal year to carry out safety projects under any other section if—

(1) the use is consistent with the State strategic highway safety plan of the State; and

(2) the State certifies to the Secretary that the funds are being used for the most effective projects for making progress toward achieving performance measures established under section 5206 of title 49.

(e) SAFETY DATA SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, each State, as part of the State highway safety improvement program of the State, shall have in effect a safety data system to—

(A) collect and maintain a record of safety data with respect to all public roads in the State;

(B) advance the capabilities of the State with respect to safety data collection, analysis, and integration;

(C) identify roadway features that constitute a hazard to road users; and

(D) perform safety problem identification and counter-measure analysis.

(2) IMPROVEMENT EFFORTS.—Each State shall carry out projects, as needed, to ensure that the safety data system of the State enhances—

(A) the timeliness, accuracy, completeness, uniformity, and accessibility of safety data with respect to all public roads in the State;

(B) the ability of the State to integrate all safety data collected throughout the State;

(C) the ability of State and national safety data systems to be compatible and interoperable;

(D) the ability of the Secretary to observe and analyze national trends in crash rates, outcomes, and circumstances; and

(E) the collection of data on crashes that involve a bicyclist or pedestrian.

(3) EVALUATION OF IMPROVEMENT EFFORTS.—Each State shall collect and maintain a record of projects undertaken to improve the safety data system of the State and shall evaluate the effectiveness of such projects.

(f) *TRANSPARENCY.*—A State shall make all plans and reports submitted to the Secretary under this section available to the public through—

(1) the Internet Web site of the State transportation department of the State; or

(2) such other means as the Secretary determines to be appropriate.

(g) *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 directly relating to this section, or published in accordance with subsection (f), 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 such reports, surveys, schedules, lists, or other data.

(h) *FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.*—The Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(5) shall be 90 percent, unless a Federal share exceeding 90 percent would apply to the project under section 120 or 130.

§ 149. Congestion mitigation and air quality improvement program

(a) * * *

[(b) *ELIGIBLE PROJECTS.*—Except as provided in subsection (c), a State may obligate funds apportioned to it under section 104(b)(2) for the congestion mitigation and air quality improvement program 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 such section 107(d) 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—

[(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—

[(I) the attainment of a national ambient air quality standard; or

[(II) the maintenance of a national ambient air quality standard in a maintenance area; and

[(ii) 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,

[(B) 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);

[(2) 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;

[(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, 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;

[(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program, including advanced truck stop electrification systems, is likely to contribute to the attainment of a national ambient air quality standard;

[(5) if the program or project improves traffic flow, including projects to improve signalization, construct high occupancy vehicle lanes, improve intersections, 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 this paragraph;

[(6) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or

[(7) if the project or program is for—

[(A) 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) published in the list under subsection (f)(2) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

[(I) located in nonattainment or maintenance areas for ozone, PM₁₀, or PM_{2.5} (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and

[(II) funded, in whole or in part, under this title; or

[(B) 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.

No funds may be provided under this section for a project which 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. In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM-10 resulting from transportation activities, the State may obligate such

funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.]

(b) ELIGIBLE PROJECTS.—

(1) IN GENERAL.—

(A) REQUIREMENTS FOR OBLIGATION OF FUNDS.—A State may obligate funds apportioned to the State under section 104(b)(2) for a transportation project or program if the project or program meets the requirements of subparagraph (B) and (C).

(B) AREA SERVED BY PROJECT OR PROGRAM.—A project or program meets the requirements of this subparagraph if the project or program is for an area in the State that—

(i) 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));

(ii) is or was designated as a nonattainment area under such section 107(d) after December 31, 1997; or

(iii) 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. 7505a).

(C) PURPOSE OF PROJECT OR PROGRAM.—A project or program meets the requirements of this subparagraph if—

(i) the Secretary, after consultation with the Administrator, determines that—

(I) on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi) of such section), 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; or

(II) the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);

(ii) 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;

(iii) 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 through reductions in travel time delay, vehicle miles traveled, or fuel consumption or through other factors; or

(iv) the Secretary determines that the project or program is likely to contribute to the mitigation of congestion.

(2) SPECIAL RULES.—

(A) PROJECTS RESULTING IN NEW CAPACITY FOR SINGLE OCCUPANT VEHICLES.—A State may obligate funds apportioned to the State under section 104(b)(2) for a project or program that will result in the construction of new capacity available to single occupant vehicles only if the project or program is likely to contribute to the mitigation of congestion or the improvement of air quality.

(B) PROJECTS FOR PM-10 NONATTAINMENT AREAS.—A State may obligate funds apportioned to the State under section 104(b)(2) for a project or program for an area that is nonattainment for ozone or carbon monoxide, or both, and for PM-10 resulting from transportation activities, without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.

(C) ELECTRIC VEHICLE INFRASTRUCTURE.—A State may obligate funds apportioned under section 104(b)(2) or 104(b)(3) for a project or program to establish or support the establishment of electric vehicle battery charging or changing facilities at any location in the State. Such projects or programs may be carried out by a State or local agency or through a public-private partnership.

* * * * *

[(f) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—

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

[(A) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

[(B) DIESEL RETROFIT.—The term “diesel retrofit” means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.

[(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel retrofit technologies and supporting technical information for—

[(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;

[(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources Board that is submitted not later than 18 months of the date of enactment of this subsection;

[(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration air quality and health effects.

[(3) PRIORITY.—

[(A) IN GENERAL.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion mitigation and air quality projects and programs from apportionments derived from application of sections 104(b)(2)(B) and 104(b)(2)(C) to—

[(i) diesel retrofits, particularly where necessary to facilitate contract compliance, and other cost-effective emission reduction activities, taking into consideration air quality and health effects; and

[(ii) cost-effective congestion mitigation activities that provide air quality benefits.

[(B) SAVINGS.—This paragraph is not intended to disturb the existing authorities and roles of governmental agencies in making final project selections.

[(4) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies or otherwise affects any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other law (other than provisions of this title relating to congestion mitigation and air quality).]

[(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) * * *

* * * * *

[§ 151. National bridge inspection program

[(a) NATIONAL BRIDGE INSPECTION STANDARDS.—The Secretary, in consultation with the State transportation departments and interested and knowledgeable private organizations and individuals, shall establish national bridge inspection standards for the proper safety inspection and evaluation of all highway bridges.

[(b) MINIMUM REQUIREMENTS OF INSPECTION STANDARDS.—The standards established under subsection (a) shall, at a minimum—

[(1) specify, in detail, the method by which such inspections shall be carried out by the States;

[(2) establish the maximum time period between inspections;

[(3) establish the qualification for those charged with carrying out the inspections;

[(4) require each State to maintain and make available to the Secretary upon request—

[(A) written reports on the results of highway bridge inspections together with notations of any action taken pursuant to the findings of such inspections; and

[(B) current inventory data for all highway bridges reflecting the findings of the most recent highway bridge inspections conducted; and

[(5) establish a procedure for national certification of highway bridge inspectors.

[(c) TRAINING PROGRAM FOR BRIDGE INSPECTORS.—The Secretary, in cooperation with the State transportation departments, shall establish a program designed to train appropriate governmental employees to carry out highway bridge inspections. Such training program shall be revised from time to time to take into account new and improved techniques.

[(d) AVAILABILITY OF FUNDS.—To carry out this section, the Secretary may use funds made available pursuant to the provisions of section 104(a), section 502, and section 144 of this title.

[§ 152. Hazard elimination program

[(a) IN GENERAL.—

[(1) PROGRAM.—Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections, and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists, bicyclists, and pedestrians, assign priorities for the correction of such locations, sections, and elements, and establish and implement a schedule of projects for their improvement.

[(2) HAZARDS.—In carrying out paragraph (1), a State may, at its discretion—

- [(A) identify, through a survey, hazards to motorists, bicyclists, pedestrians, and users of highway facilities; and
- [(B) develop and implement projects and programs to address the hazards.

[(b) The Secretary may approve as a project under this section any safety improvement project, including a project described in subsection (a).

[(c) Funds authorized to carry out this section shall be available for expenditure on—

- [(1) any public road;
- [(2) any public surface transportation facility or any publicly owned bicycle or pedestrian pathway or trail; or
- [(3) any traffic calming measure.

[(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

[(e) Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

[(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for various types of corrections and treatments which shall be used in setting priorities for safety improvement projects.

[(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement safety improvement projects for hazard elimi-

nation and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives not later than April 1 of each year on the progress being made by the States in implementing the hazard elimination program (including but not limited to any projects for pavement marking). The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

[(h) For the purposes of this section the term "State" shall have the meaning given it in section 401 of this title.]

§ 151. National highway bridge and tunnel inventory and inspection program

(a) NATIONAL HIGHWAY BRIDGE AND TUNNEL INVENTORY.—The Secretary, in consultation with the States and Federal agencies with jurisdiction over highway bridges and tunnels, shall—

(1) inventory all bridges on public roads, on and off Federal-aid highways, including tribally owned and federally owned bridges, that are over waterways, other topographical barriers, other highways, and railroads;

(2) inventory all tunnels on public roads, on and off Federal-aid highways, including tribally owned and federally owned tunnels;

(3) identify each bridge or tunnel inventoried under paragraph (1) or (2) that is structurally deficient or functionally obsolete;

(4) assign a risk-based priority for replacement or rehabilitation of each structurally deficient bridge or tunnel identified under paragraph (3) after consideration of safety, serviceability, 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 or tunnel is diminished; and

(5) determine the cost of replacing each structurally deficient bridge or tunnel identified under paragraph (3) with a comparable facility or the cost of rehabilitating the bridge or tunnel.

(b) NATIONAL HIGHWAY BRIDGE AND TUNNEL INSPECTION STANDARDS.—

(1) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper safety inspection and evaluation of all highway bridges and tunnels described in subsections (a)(1) and (a)(2). The standards shall be designed to

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ensure uniformity in the conduct of such inspections and evaluations.

(2) **MINIMUM REQUIREMENTS FOR INSPECTION STANDARDS.**—At a minimum, the standards established under paragraph (1) shall—

(A) specify, in detail, the method by which inspections will be carried out by States, Federal agencies, and tribal governments;

(B) establish the maximum time period between inspections;

(C) establish the qualifications for those charged with carrying out inspections;

(D) require each State, Federal agency, and tribal government to maintain and make available to the Secretary upon request—

(i) written reports on the results of highway bridge and tunnel inspections, together with notations of any action taken pursuant to the findings of such inspections; and

(ii) inventory data for all highway bridges and tunnels described in subsections (a)(1) and (a)(2) under the jurisdiction of the State, Federal agency, or tribal government that reflect the findings of the most recent highway bridge and tunnel inspections;

(E) establish a procedure for national certification of highway bridge and tunnel inspectors;

(F) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for the Secretary to conduct reviews of State and Federal agency compliance with the standards established under this subsection; and

(G) establish, in consultation with the States, Federal agencies, and interested and knowledgeable private organizations and individuals, procedures for the States to follow in reporting to the Secretary—

(i) critical findings relating to structural safety-related deficiencies of highway bridges and tunnels; and

(ii) monitoring activities and corrective actions taken in response to a critical finding described in clause (i).

(3) **COMPLIANCE REQUIREMENTS.**—

(A) **REVIEWS OF STATE COMPLIANCE.**—The Secretary shall annually review State compliance with the standards established under this section.

(B) **FINDINGS OF NONCOMPLIANCE.**—If the Secretary identifies noncompliance by a State in conducting an annual review under subparagraph (A), the Secretary shall issue a report detailing the noncompliance by December 31 of the calendar year in which the review is conducted and shall provide the State an opportunity to address the noncompliance by—

(i) developing a corrective action plan to remedy the noncompliance; or

(ii) resolving the noncompliance within 45 days of receiving notification of the noncompliance.

(4) PENALTY FOR NONCOMPLIANCE.—

(A) FUNDING REQUIREMENT.—If the Secretary identifies noncompliance by a State in conducting an annual review under paragraph (3)(A) in a calendar year, and the State fails to address the noncompliance in the manner described in paragraph (3)(B) by August 1 of the succeeding year, on October 1 of such succeeding year, and each year thereafter as necessary, the Secretary shall require the State to dedicate funds apportioned to the State under sections 104(b)(1) and 104(b)(3) to correct the noncompliance.

(B) AMOUNT.—The amount of the funds dedicated to correcting the 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.

(c) TRAINING PROGRAM FOR BRIDGE AND TUNNEL INSPECTORS.—The Secretary, in cooperation with State transportation departments, shall establish a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

(d) AVAILABILITY OF FUNDS.—In carrying out this section—

(1) the Secretary may use funds made available to the Secretary under sections 104(a) and 503;

(2) a State may use amounts apportioned to the State under sections 104(b)(1), 104(b)(3), and 104(b)(5);

(3) an Indian tribe may use funds made available to the Indian tribe under section 502; and

(4) a Federal agency may use funds made available to the agency under section 503.

* * * * *

§ 155. Access highways to public recreation areas on certain lakes

[(a) The Secretary is authorized to construct or reconstruct access highways to public recreation areas on lakes in order to accommodate present and projected traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

[(1) No portion of any access highway constructed or reconstructed under this section shall exceed thirty-five miles in length nor shall any portion of such highway be located more than thirty-five miles from the nearest part of such recreation area.

[(2) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials, after consultation with the head of the Federal agency (if any) having jurisdiction over the public recreation area involved.

[(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 75 per centum of the cost of construction or reconstruction of such project.

[(c) All of the provisions of this title applicable to highways on the Federal-aid system (other than the Interstate System) determined appropriate by the Secretary, except those provisions which the Secretary determines are inconsistent with this section, shall apply to any highway designated under this section which is not a part of the Federal-aid system when so designated.

[(d) For the purpose of this section the term "lake" means any lake, reservoir, pool, or other body of water resulting from the construction of any lock, dam, or similar structure by the Corps of Engineers, Department of the Army, or the Bureau of Reclamation, Department of the Interior, or the Tennessee Valley Authority, and any multipurpose lake resulting from construction assistance of the Soil Conservation Service, Department of Agriculture. This section shall apply to lakes heretofore or hereafter constructed or authorized for construction.

[(e) There is authorized to be appropriated not to exceed \$25,000,000 for the fiscal year 1976 to carry out this section. Amounts authorized by this subsection for a fiscal year shall be available for that fiscal year and for the two succeeding fiscal years.]

§ 156. [Proceeds from the sale or lease of real property] Sale or lease of real property

(a) * * *

* * * * *

(d) *ASSESSMENT OF ADVERSE EFFECTS.*—Notwithstanding part 800 of title 36, Code of Federal Regulations, the sale or lease by a State of any historic property that is not listed in the National Register of Historic Places shall not be considered an adverse effect to the property within any consultation process carried out under section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

[§ 157. Safety incentive grants for use of seat belts

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

[(1) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

[(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term "multipurpose passenger motor vehicle" means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

[(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term "national average seat belt use rate" means, in the case of each of calendar years 1996 through 2003, the national average seat belt use rate for that year, as determined by the Secretary.

[(4) PASSENGER CAR.—The term “passenger car” means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

[(5) PASSENGER MOTOR VEHICLE.—The term “passenger motor vehicle” means a passenger car or a multipurpose passenger motor vehicle.

[(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term “savings to the Federal Government” means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

[(7) SEAT BELT.—The term “seat belt” means—

[(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

[(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

[(8) STATE SEAT BELT USE RATE.—The term “State seat belt use rate” means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

[(A) for each of calendar years 1996 and 1997, by the State, as weighted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

[(B) for each of calendar years 1998 through 2003, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

[(b) DETERMINATIONS BY THE SECRETARY.—Not later than September 1, 1998, and September 1 of each calendar year thereafter through September 1, 2005, the Secretary shall determine—

[(1)(A) which States had, for each of the previous calendar years (in this subsection referred to as the “previous calendar year”) and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

[(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

[(2) in the case of each State that is not a State described in paragraph (1)(A)—

[(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1996 through the calendar year preceding the previous calendar year; and

[(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat

belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

[(c) ALLOCATIONS.—

[(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2004, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

[(2) OTHER STATES.—Not later than October 1, 1998, and each October 1 thereafter through October 1, 2004, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

[(d) USE OF AMOUNTS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

[(e) CRITERIA.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

[(f) INNOVATIVE SEAT BELT PROJECT ALLOCATIONS.—

[(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (g)(3) to make allocations to States to carry out innovative projects to promote increased seat belt use rates.

[(2) DETERMINATION OF ELIGIBILITY.—To be eligible to receive an allocation under this subsection for a fiscal year, a State shall—

[(A) develop a plan for innovative projects described in paragraph (1); and

[(B) submit the plan to the Secretary not later than March 1 of the fiscal year.

[(3) PLAN SELECTION.—

[(A) CRITERIA.—Not later than December 1, 1998, the Secretary shall establish criteria for the selection of State plans for allocations under this subsection.

[(B) SELECTION.—The Secretary shall select State plans for allocations under this subsection in accordance with the criteria established under subparagraph (A).

[(C) STATES.—In carrying out this paragraph, the Secretary shall ensure, to the maximum extent practicable, demographic and geographic diversity and a diversity of seat belt use rates among the States selected for allocations.

[(4) ALLOCATION.—Not later than October 1, 1999, and each October 1 thereafter through October 1, 2004, the Secretary shall allocate funds to the States whose plans were selected under paragraph (3).

[(5) AMOUNT OF ALLOCATIONS.—Subject to the availability of unallocated amounts under subsection (g)(3), the amount of each allocation to a State under this subsection shall be not less than \$100,000 for each fiscal year that is covered by a State plan.

[(6) USE OF ALLOCATIONS.—An allocation to a State under this subsection shall be used to carry out the innovative seat belt projects described in the State plan for which the allocation is awarded.

[(7) FEDERAL SHARE.—The Federal share of the cost of an innovative seat belt project under this section shall be 100 percent.

[(8) PERIOD OF AVAILABILITY.—Amounts allocated to a State under this subsection shall remain available for obligation in the State for a period of 3 years after the last day of the fiscal year for which the amounts are allocated.

[(g) FUNDING.—

[(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$82,000,000 for fiscal year 1999, \$92,000,000 for fiscal year 2000, \$102,000,000 for fiscal year 2001, \$112,000,000 for fiscal year 2002, \$112,000,000 for fiscal year 2003, \$112,000,000 for fiscal year 2004, and \$112,000,000 for fiscal year 2005.

[(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

[(3) USE OF UNALLOCATED FUNDS.—

[(A) FISCAL YEAR 1999.—To the extent that the amounts made available for fiscal year 1999 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for fiscal year 1999, the excess amounts—

[(i) shall be apportioned in accordance with section 104(b)(3);

[(ii) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

[(iii) shall be available for any purpose eligible for funding under section 133.

[(B) FISCAL YEARS 2000 THROUGH 2005.—To the extent that the amounts made available for any of fiscal years 2000 through 2005 under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts shall be used to make allocations under subsection (f).]

* * * * *

§ 160. Reimbursement for segments of the Interstate System constructed without Federal assistance

[(a) GENERAL AUTHORITY.—The Secretary shall allocate to the States in each of fiscal years 1996 and 1997 amounts determined under subsection (b) for reimbursement of their original contributions to construction of segments of the Interstate System which were constructed without Federal financial assistance.

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[(b) DETERMINATION OF REIMBURSEMENT AMOUNT.—The amount to be reimbursed to a State in each of fiscal years 1996 and 1997 under this section shall be determined by multiplying the amount made available for carrying out this section for such fiscal year by the reimbursement percentage set forth in the table contained in subsection (c).

[(c) REIMBURSEMENT TABLE.—For purposes of carrying out this section, the reimbursement percentage, the original cost for constructing the Interstate System, and the total reimbursable amount for each State is set forth in the following table:

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Alabama	\$9	0.50	\$147
Alaska		0.50	147
Arizona	20	0.50	147
Arkansas	6	0.50	147
California	298	5.42	1,591
Colorado	23	0.50	147
Connecticut	314	5.71	1,676
Delaware	39	0.71	209
Florida	31	0.56	164
Georgia	46	0.84	246
Hawaii		0.50	147
Idaho	5	0.50	147
Illinois	475	8.62	2,533
Indiana	167	3.03	892
Iowa	5	0.50	147
Kansas	101	1.84	540
Kentucky	32	0.57	169
Louisiana	22	0.50	147
Maine	38	0.69	204
Maryland	154	2.79	820
Massachusetts	283	5.14	1,511
Michigan	228	4.14	1,218
Minnesota	16	0.50	147
Mississippi	6	0.50	147
Missouri	74	1.35	396
Montana	5	0.50	147
Nebraska	1	0.50	147
Nevada	2	0.50	147
New Hampshire	8	0.50	147
New Jersey	353	6.41	1,882
New Mexico	8	0.50	147
New York	929	16.88	4,960
North Carolina	36	0.65	191
North Dakota	3	0.50	147
Ohio	257	4.68	1,374
Oklahoma	91	1.66	486
Oregon	78	1.42	417
Pennsylvania	354	6.43	1,888
Rhode Island	12	0.50	147
South Carolina	4	0.50	147
South Dakota	5	0.50	147
Tennessee	7	0.50	147
Texas	200	3.64	1,069
Utah	6	0.50	147
Vermont	1	0.50	147
Virginia	111	2.01	591
Washington	73	1.32	389
West Virginia	5	0.50	147
Wisconsin	8	0.50	147
Wyoming	9	0.50	147

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
D.C.	9	0.50	147
TOTALS	\$4,967	100.00	\$29,384

[(d) TRANSFER OF REIMBURSABLE AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (e) of this section, the Secretary shall transfer amounts allocated to a State pursuant to this section to the apportionment of such State under section 104(b)(3) for the surface transportation program.

[(e) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of this title shall not apply to 1/2 of the amounts transferred under subsection (d) to the apportionment of the State for the surface transportation program:

- [(1) Subsection (d)(1).
- [(2) Subsection (d)(2).
- [(3) Subsection (d)(3).

[(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), \$2,000,000,000 per fiscal year for each of fiscal years 1996 and 1997 to carryout this section.]

* * * * *

[§ 162. National scenic byways program

[(a) DESIGNATION OF ROADS.—

[(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as—

- [(A) National Scenic Byways;
- [(B) All-American Roads; or
- [(C) America's Byways.

[(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

[(3) NOMINATION.—

[(A) IN GENERAL.—To be considered for a designation, a road must be nominated by a State, an Indian tribe, or a Federal land management agency and must first be designated as a State scenic byway, an Indian tribe scenic byway, or, in the case of a road on Federal land, as a Federal land management agency byway.

[(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway, an All-American Road, or one of America's Byways under paragraph (1) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

- [(i) jurisdiction over the road; or
- [(ii) responsibility for managing the road.

[(C) SAFETY.—An Indian tribe shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).

[(4) RECIPROCAL NOTIFICATION.—States, Indian tribes, and Federal land management agencies shall notify each other regarding nominations made under this subsection for roads that—

[(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

[(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.

[(b) GRANTS AND TECHNICAL ASSISTANCE.—

[(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States and Indian tribes to—

[(A) implement projects on highways designated as—

[(i) National Scenic Byways;

[(ii) All-American Roads;

[(iii) America's Byways;

[(iv) State scenic byways; or

[(v) Indian tribe scenic byways; and

[(B) plan, design, and develop a State or Indian tribe scenic byway program.

[(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

[(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway, All-American Road, or 1 of America's Byways and that is consistent with the corridor management plan for the byway;

[(B) each eligible project along a State or Indian tribe scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as—

[(i) a National Scenic Byway;

[(ii) an All-American Road; or

[(iii) 1 of America's Byways; and

[(C) each eligible project that is associated with the development of a State or Indian tribe scenic byway program.

[(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

[(1) An activity related to the planning, design, or development of a State or Indian tribe scenic byway program.

[(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

[(3) Safety improvements to a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways to the extent that the improve-

ments are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, Indian tribe scenic byway, National Scenic Byway, All-American Road, or one of America's Byways.

[(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, overlook, or interpretive facility.

[(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

[(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

[(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

[(8) Development and implementation of a scenic byway marketing program.

[(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

[(e) SAVINGS CLAUSE.—The Secretary shall not withhold any grant or impose any requirement on a State or Indian tribe as a condition of providing a grant or technical assistance for any scenic byway unless the requirement is consistent with the authority provided in this chapter.

[(f) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byway project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.]

* * * * *

§ 164. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

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

(1) * * *

* * * * *

[(3) LICENSE SUSPENSION.—The term "license suspension" means the suspension of all driving privileges.]

[(4)] (3) MOTOR VEHICLE.—The term "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

[(5)] (4) REPEAT INTOXICATED DRIVER LAW.—The term "repeat intoxicated driver law" means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving

under the influence after a previous conviction for that offense shall—

[(A) receive—

[(i) a driver's license suspension for not less than 1 year; or

[(ii) a combination of suspension of all driving privileges for the first 45 days of the suspension period followed by a reinstatement of limited driving privileges for the purpose of getting to and from work, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual;]

(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 with limited driving privileges permitted (subject to requirements established under State law) if an ignition interlock device is installed for not less than 1 year on each motor vehicle owned or operated, or both, by the individual;

* * * * *

(b) TRANSFER OF FUNDS.—

(1) FISCAL YEARS 2001 AND 2002.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1 1/2 percent of the funds apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) to the apportionment of the State under section 402—

(A) to be used for [alcohol-impaired driving countermeasures] projects and activities addressing impaired driving (as such term is defined in section 402(p)(11)); or

* * * * *

§ 165. Puerto Rico highway program

[(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section for each of fiscal years 2005 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

[(b) APPLICABILITY OF TITLE.—Amounts made available by section 1101(a)(14) of the SAFETEA-LU shall be available for obligation in the same manner as if such funds were apportioned under this chapter.]

(a) ALLOCATION OF FUNDS.—On October 1 of each fiscal year, the Secretary shall allocate the funds made available for the fiscal year to carry out this section to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

(b) APPLICABILITY OF TITLE.—Amounts made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

(1) APPORTIONMENT.—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] *section 104(b)*, for each program funded under those sections in an amount determined by multiplying—

(A) * * *

* * * * *

(d) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to subsection (c)(2), nothing in this section affects any allocation under section 105 and any apportionment under [sections 104 and 144] *section 104*.

§ 166. HOV facilities

(a) * * *

(b) EXCEPTIONS.—

(1) * * *

* * * * *

(5) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

(A) INHERENTLY LOW EMISSION VEHICLE.—Before September 30, [2009] 2016, the State agency may allow vehicles that are certified as inherently low-emission vehicles pursuant to section 88.311-93 of title 40, Code of Federal Regulations (or successor regulations), and are labeled in accordance with section 88.312-93 of such title (or successor regulations), to use the HOV facility if the agency establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.

(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, [2009] 2016, the State agency may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—

(i) * * *

* * * * *

(C) AMOUNT OF TOLLS.—Under [subparagraph (B)] *this paragraph*, a State agency may charge no toll or may charge a toll that is less than *or equal to* tolls charged under paragraph (4).

(c) REQUIREMENTS APPLICABLE TO TOLLS.—

(1) * * *

* * * * *

[(3) EXCESS TOLL REVENUES.—If a State agency makes a certification under section 129(a)(3) with respect to toll revenues collected under paragraphs (4) and (5) of subsection (b), the State, in the use of toll revenues under that sentence, shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.]

(3) TOLL REVENUE.—Toll revenue collected under this section is subject to the requirements of section 129(a)(3).

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

(1) * * *

(2) DEGRADED FACILITY.—

(A) * * *

* * * * *

(D) MAINTENANCE OF OPERATING PERFORMANCE.—Not later than 6 months after a facility has been determined to be degraded pursuant to the standard specified in subparagraph (B), the State agency with jurisdiction over the facility shall bring the facility into compliance with the minimum average operating speed performance standard through changes to operation of the facility, including—

- (i) increasing the occupancy requirement for HOV lanes;
- (ii) varying the toll charged to vehicles allowed under subsection (b) to reduce demand;
- (iii) discontinuing allowing non-HOV vehicles to use HOV lanes under subsection (b); or
- (iv) increasing the available capacity of the HOV facility.

* * * * *

§ 167. Integration of planning and environmental review

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

(1) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term “environmental review process” means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) INCLUSIONS.—The term “environmental review process” includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) PLANNING PRODUCT.—The term “planning product” means any decision, analysis, study, or other documented result of an evaluation or decisionmaking process carried out during transportation planning.

(3) PROJECT.—The term “project” means any highway project or program of projects, public transportation capital project or program of projects, or multimodal project or program of projects that requires the approval of the Secretary.

(4) PROJECT SPONSOR.—The term “project sponsor” means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.

(b) PURPOSE AND FINDINGS.—

(1) PURPOSE.—The purpose of this section is to establish the authority and provide procedures for achieving integrated planning and environmental review processes to—

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(A) enable statewide and metropolitan planning processes to more effectively serve as the foundation for project decisions;

(B) foster better decisionmaking;

(C) reduce duplication in work;

(D) avoid delays in transportation improvements; and

(E) better transportation and environmental results for communities and the United States.

(2) FINDINGS.—Congress finds the following:

(A) This section is consistent with and is adopted in furtherance of sections 101 and 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 and 4332) and section 109 of this title.

(B) This section should be broadly construed and may be applied to any project, class of projects, or program of projects carried out under this title or chapter 53 of title 49.

(c) ADOPTION OF PLANNING PRODUCTS FOR USE IN NEPA PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to the conditions set forth in subsection (e), the Federal lead agency for a project, at the request of the project sponsors, may adopt and use a planning product in proceedings relating to any class of action in the environmental review process of the project.

(2) PARTIAL ADOPTION OF PLANNING PRODUCTS.—The Federal lead agency may adopt a planning product under paragraph (1) in its entirety or may select portions for adoption.

(3) TIMING.—A determination under paragraph (1) with respect to the adoption of a planning product shall be made at the time the lead agencies decide the appropriate scope of environmental review for the project.

(d) APPLICABILITY.—

(1) PLANNING DECISIONS.—Planning decisions that may be adopted pursuant to this section include—

(A) a purpose and need or goals and objectives statement for the project, including with respect to whether tolling, private financial assistance, or other special financial measures are necessary to implement the project;

(B) a decision with respect to travel corridor location, including project termini;

(C) a decision with respect to modal choice, including a decision to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;

(D) a decision with respect to the elimination of unreasonable alternatives and the selection of the range of reasonable alternatives for detailed study during the environmental review process;

(E) a basic description of the environmental setting;

(F) a decision with respect to methodologies for analysis; and

(G) identifications of programmatic level mitigation for potential impacts that the Federal lead agency, in consultation with Federal, State, local, and tribal resource agencies,

determines are most effectively addressed at a regional or national program level, including—

(i) system-level measures to avoid, minimize, or mitigate impacts of proposed transportation investments on environmental resources, including regional ecosystem and water resources; and

(ii) potential mitigation activities, locations, and investments.

(2) **PLANNING ANALYSES.**—Planning analyses that may be adopted pursuant to this section include studies with respect to—

(A) travel demands;

(B) regional development and growth;

(C) local land use, growth management, and development;

(D) population and employment;

(E) natural and built environmental conditions;

(F) environmental resources and environmentally sensitive areas;

(G) potential environmental effects, including the identification of resources of concern and potential cumulative effects on those resources, identified as a result of a state-wide or regional cumulative effects assessment; and

(H) mitigation needs for a proposed action, or for programmatic level mitigation, for potential effects that the Federal lead agency determines are most effectively addressed at a regional or national program level.

(e) **CONDITIONS.**—Adoption and use of a planning product under this section is subject to a determination by the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, that the following conditions have been met:

(1) The planning product was developed through a planning process conducted pursuant to applicable Federal law.

(2) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects.

(3) During the planning process, notice was provided through publication or other means to Federal, State, and local government agencies and tribal governments that might have an interest in the proposed project, and to members of the general public, of the planning products that the planning process might produce and that might be relied on during the environmental review process, and such entities have been provided an appropriate opportunity to participate in the planning process leading to such planning product.

(4) Prior to determining the scope of environmental review for the project, the joint lead agencies have made documentation relating to the planning product available to Federal, State, and local governmental agencies and tribal governments that may have an interest in the proposed action, and to members of the general public.

(5) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product.

(6) *The planning product is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.*

(7) *The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.*

(8) *The planning product is appropriate for adoption and use in the environmental review process for the project.*

(f) **EFFECT OF ADOPTION.**—*Notwithstanding any other provision of law, any planning product adopted by the Federal lead agency in accordance with this section shall not be reconsidered or made the subject of additional interagency consultation during the environmental review process of the project unless the Federal lead agency, in consultation with joint lead agencies and project sponsors as appropriate, determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the adopted planning product. Any planning product adopted by the Federal lead agency in accordance with this section may be relied upon and used by other Federal agencies in carrying out reviews of the project.*

(g) **RULE OF CONSTRUCTION.**—*This section may not be construed to make the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) process applicable to the transportation planning process conducted under chapter 52 of title 49. Initiation of the National Environmental Policy Act of 1969 process as a part of, or concurrently with, transportation planning activities does not subject transportation plans and programs to the National Environmental Policy Act of 1969 process. This section may not be construed to affect the use of planning products in the National Environmental Policy Act of 1969 process pursuant to other authorities under law or to restrict the initiation of the National Environmental Policy Act of 1969 process during planning.*

§ 168. Development of programmatic mitigation plans

(a) **IN GENERAL.**—*As part of the statewide or metropolitan transportation planning process, a State or metropolitan planning organization may develop one or more programmatic mitigation plans to address the potential environmental impacts of future transportation projects.*

(b) **SCOPE.**—

(1) **SCALE.**—*A programmatic mitigation plan may be developed on a regional, ecosystem, watershed, or statewide scale.*

(2) **RESOURCES.**—*The plan may encompass multiple environmental resources within a defined geographic area or may focus on a specific resource, such as aquatic resources, parklands, or wildlife habitat.*

(3) **PROJECT IMPACTS.**—*The plan may address impacts from all projects in a defined geographic area or may focus on a specific type of project, such as bridge replacements.*

(4) **CONSULTATION.**—*The scope of the plan shall be determined by the State or metropolitan planning organization, as appropriate, in consultation with the agency or agencies with*

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jurisdiction over the resources being addressed in the mitigation plan.

(c) CONTENTS.—A programmatic mitigation plan may include—

(1) an assessment of the condition of environmental resources in the geographic area covered by the plan, including an assessment of recent trends and any potential threats to those resources;

(2) an assessment of potential opportunities to improve the overall quality of environmental resources in the geographic area covered by the plan, through strategic mitigation for impacts of transportation projects;

(3) standard measures for mitigating certain types of impacts;

(4) parameters for determining appropriate mitigation for certain types of impacts, such as mitigation ratios or criteria for determining appropriate mitigation sites;

(5) adaptive management procedures, such as protocols that involve monitoring predicted impacts over time and adjusting mitigation measures in response to information gathered through the monitoring; and

(6) acknowledgment of specific statutory or regulatory requirements that must be satisfied when determining appropriate mitigation for certain types of resources.

(d) PROCESS.—Before adopting a programmatic mitigation plan, a State or metropolitan planning organization shall—

(1) consult with the agency or agencies with jurisdiction over the environmental resources considered in the programmatic mitigation plan;

(2) make a draft of the plan available for review and comment by applicable environmental resource agencies and the public;

(3) consider any comments received from such agencies and the public on the draft plan; and

(4) address such comments in the final plan.

(e) INTEGRATION WITH OTHER PLANS.—A programmatic mitigation plan may be integrated with other plans, including watershed plans, ecosystem plans, species recovery plans, growth management plans, and land use plans.

(f) CONSIDERATION IN PROJECT DEVELOPMENT AND PERMITTING.—If a programmatic mitigation plan has been developed pursuant to this section, any Federal agency responsible for environmental reviews, permits, or approvals for a transportation project shall give substantial weight to the recommendations in a programmatic mitigation plan when carrying out their responsibilities under applicable laws.

(g) PRESERVATION OF EXISTING AUTHORITIES.—Nothing in this section limits the use of programmatic approaches to reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

* * * * *

CHAPTER 2—OTHER HIGHWAYS

Sec.

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§ 201. Authorizations

[The provision of this title shall apply to all unappropriated authorizations contained in prior Acts, and also to all unexpended appropriations heretofore made, providing for the expenditure of Federal funds on the following classes of highways: Forest highways, forest development roads and trails, park road, parkways, Indian reservation roads, refuge roads, public lands highways, and defense access roads. All such authorizations and appropriations shall continue in full force and effect, but hereafter obligations entered into and expenditures made pursuant thereto shall be subject to the provisions of this title.

§ 202. Allocations

(a) ALLOCATION BASED ON NEED.—

[(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.

[(2) PLANNING.—The allocation under paragraph (1) shall be consistent with the renewable resource and land use planning for the various national forests.

(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

[(1) PUBLIC LANDS HIGHWAYS.—

[(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 34 percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

[(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are pro-

posed by a State that contains at least 3 percent of the total public land in the United States.

[(2) FOREST HIGHWAYS.—

[(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66 percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

[(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

[(i) renewable resource and land use planning;
and

[(ii) assessments of the impact of that planning on transportation facilities.

[(c) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for park roads and parkways each according to the relative needs of the various elements of the national park system, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation facilities.

[(d) INDIAN RESERVATION ROADS.—

[(1) FOR FISCAL YEARS ENDING BEFORE OCTOBER 1, 1999.—

On October 1 of each fiscal year ending before October 1, 1999, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.

[(2) FISCAL YEAR 2000 AND THEREAFTER.—

[(A) IN GENERAL.—All funds authorized to be appropriated for Indian reservation roads shall be allocated among Indian tribes for fiscal year 2000 and each subsequent fiscal year in accordance with a formula established by the Secretary of the Interior under a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5.

[(B) REGULATIONS.—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall issue regulations governing the Indian reservation roads program, and establishing the funding formula for fiscal year 2000 and each subsequent fiscal year under this paragraph, in accordance with a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5. The regulations shall be issued in final form not later than April 1, 1999, and shall take effect not later than October 1, 1999.

[(C) NEGOTIATED RULEMAKING COMMITTEE.—In establishing a negotiated rulemaking committee to carry out subparagraph (B), the Secretary of the Interior shall—

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[(i) apply the procedures under subchapter III of chapter 5 of title 5 in a manner that reflects the unique government-to-government relationship between the Indian tribes and the United States; and

[(ii) ensure that the membership of the committee includes only representatives of the Federal Government and of geographically diverse small, medium, and large Indian tribes.

[(D) BASIS FOR FUNDING FORMULA.—The funding formula established for fiscal year 2000 and each subsequent fiscal year under this paragraph shall be based on factors that reflect—

[(i) the relative needs of the Indian tribes, and reservation or tribal communities, for transportation assistance; and

[(ii) the relative administrative capacities of, and challenges faced by, various Indian tribes, including the cost of road construction in each Bureau of Indian Affairs area, geographic isolation and difficulty in maintaining all-weather access to employment, commerce, health, safety, and educational resources.

[(E) TRANSFERRED FUNDS.—

[(i) 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 available for immediate use by, the eligible Indian tribes, in accordance with the formula for distribution of funds under the Indian reservation roads program.

[(ii) USE OF FUNDS.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.

[(F) ADMINISTRATIVE EXPENSES.—

[(i) IN GENERAL.—Of the funds authorized to be appropriated for Indian reservation roads, \$20,000,000 for fiscal year 2006, \$22,000,000 for fiscal year 2007, \$24,500,000 for fiscal year 2008, and \$27,000,000 for fiscal year 2009 may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses.

[(ii) 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 for Indian reservation roads under the Transportation Equity Act for the 21st Century (Public Law 105-178) and SAFETEA-LU through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribal government—

[(I) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

[(II) 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

[(III) provides a copy of the certification under subclause (I) to the Deputy Assistant Secretary for Tribal Government Affairs or the Assistant Secretary for Indian Affairs, as appropriate.

[(G) NATIONAL TRIBAL TRANSPORTATION FACILITY INVENTORY.—

[(i) IN GENERAL.—Not later than 2 years after the date of enactment of the SAFETEA-LU, the Secretary, in cooperation with the Secretary of the Interior, shall complete a comprehensive national inventory of transportation facilities that are eligible for assistance under the Indian reservation roads program.

[(ii) 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 Indian reservation roads program that a tribe has requested, including facilities that—

[(I) were included in the Bureau of Indian Affairs system inventory for funding formula purposes in 1992 or any subsequent fiscal year;

[(II) were constructed or reconstructed with funds from the Highway Trust Funds (other than the Mass Transit Account) under the Indian reservation roads program since 1983;

[(III) are owned by an Indian tribal government; or

[(IV) are community streets or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or

[(V) 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 termini, such as airports, harbors, or boat landings.

[(iii) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this subparagraph, a proposed pri-

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mary access route is the shortest practicable route connecting 2 points of the proposed route.

[(iv) ADDITIONAL FACILITIES.—Nothing in this subparagraph shall preclude the Secretary from including additional transportation facilities that are eligible for funding under the Indian reservation roads 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.

[(v) REPORT TO CONGRESS.—Not later than 90 days after the date of completion of the inventory under this subparagraph, the Secretary shall prepare and submit a report to Congress that includes the data gathered and the results of the inventory.

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

[(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available under this chapter and section 125(e) for Indian reservation roads and for highway bridges located on Indian reservation roads to pay for the costs of programs, services, functions, and activities, or portions thereof, that are specifically or functionally related to the cost of planning, research, engineering, and construction of any highway, road, bridge, parkway, or transit facility that provides access to or is located within the reservation or community of an Indian tribe 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 the Indian Self-Determination and Education Assistance Act.

[(B) EXCLUSION OF AGENCY PARTICIPATION.—Funds for programs, functions, services, or activities, or portions thereof, 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 that has previously carried out such programs, functions, services, or activities.

[(4) RESERVATION OF FUNDS.—

[(A) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

[(B) FUNDING.—

[(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$14,000,000 for each of fiscal years 2005 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace, reha-

bilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

[(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if such funds were apportioned under chapter 1.

[(C) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

[(i) have an opening of 20 feet or more;

[(ii) be on an Indian reservation road;

[(iii) be structurally deficient or functionally obsolete; and

[(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

[(D) APPROVAL REQUIREMENT.—

[(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

[(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering after approval of applicable plans, specifications, and estimates in accordance with this title.

[(5) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

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

[(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds 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 Federal lands highway programs, the programs, functions, services, or activities involved.

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[(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 highway, road, bridge, parkway, or transit 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), 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) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribal government self-determination contracts or self-governance funding agreements with any Federal agency during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability 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. 450b 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. 450b 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 under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolutions and appeal procedures authorized by such Act, including regulations issued to carry out such Act.

[(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.

[(e) REFUGE ROADS.—On October 1 of each fiscal year, the Secretary shall allocate the sums made available for that fiscal year for refuge roads according to the relative needs of the various refuges in the National Wildlife Refuge System, and taking into consideration—

- [(1) the comprehensive conservation plan for each refuge;
- [(2) the need for access as identified through land use planning; and
- [(3) the impact of land use planning on existing transportation facilities.

[(§ 203. Availability of funds

[(Funds authorized for forest development roads and trails, public lands development roads and trails, park road, parkways, refuge roads, Indian reservation roads, and public lands highways shall be available for contract upon apportionment, or on October 1, of the fiscal year for which authorized if no apportionment is required. Any amount remaining unexpended for a period of three years after the close of the fiscal year for which authorized shall lapse. The Secretary of the Department charged with the administration of such funds is granted authority to incur obligations, approve projects, and enter into contracts under such authorizations and his action in doing so shall be deemed a contractual obligation of the United States for the payment of the cost thereof and such funds shall be deemed to have been expended when so obligated. Any funds heretofore or hereafter authorized for any fiscal year for forest development roads and trails, public lands development roads and trails, park road, parkways, refuge roads, Indian roads, and public lands highways shall be deemed to have been expended if a sum equal to the total of the sums authorized for such fiscal

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year and previous fiscal years since and including the fiscal year ending June 30, 1955, shall have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated authorizations and be immediately available for expenditure. Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to pay the Federal share of the cost of the project.

§ 204. Federal Lands Highways Program

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, refuge roads, and Indian reservation roads and bridges.

[(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

[(3) 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.

[(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

[(A) shall be developed in cooperation with States and metropolitan planning organizations; and

[(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

[(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

[(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.

[(b) USE OF FUNDS.—

[(1) IN GENERAL.—Funds made available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the

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appropriate Federal land management agency to pay the cost of—

[(A) transportation planning, research, and engineering and construction of highways, roads, parkways, and transit facilities located on public lands, national parks, and Indian reservations; and

[(B) operation and maintenance of transit facilities located on public lands, national parks, and Indian reservations.

[(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 such activity with—

[(A) a State (including a political subdivision of a State); or

[(B) an Indian tribe.

[(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

[(A) 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); and

[(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

[(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

[(5) AVAILABILITY OF FUNDS.—Funds made available under this section for each class of Federal lands highways shall be available for any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highways.

[(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation roads program to finance Indian technical centers under section 504(b).

[(c) Before approving as a project on an Indian reservation road any project eligible for funds apportioned under section 104 or section 144 of this title in a State, the Secretary must determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads, of a fair and equitable share of funds apportioned to such State under section 104 of this title. Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent of the funds allocated to an Indian tribe may be expended for the purpose of maintenance, excluding road sealing which shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian

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reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads 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.

[(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contributed.

[(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the appropriate Federal land management agency shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Notwithstanding the foregoing, the provisions of section 23 of the "Buy Indian" Act of June 25, 1910 (36 Stat. 891), and the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior which are appropriated for the construction and improvement of Indian reservation roads.

[(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

[(g) The Secretary shall transfer to the Secretary of Agriculture from appropriations for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

[(h) ELIGIBLE PROJECTS.—Funds available for each class of Federal lands highways may be available for the following:

[(1) Transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

[(2) Adjacent vehicular parking areas.

[(3) Interpretive signage.

[(4) Acquisition of necessary scenic easements and scenic or historic sites.

[(5) Provision for pedestrians and bicycles.

[(6) Construction and reconstruction of roadside rest areas including sanitary and water facilities.

[(7) Other appropriate public road facilities such as visitor centers as determined by the Secretary.

[(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.

[(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

[(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such

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amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

[(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section.

[(j) INDIAN RESERVATION ROADS PLANNING.—Up to 2 percent of funds made available for Indian reservation roads for each fiscal year shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistance Act. The 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 subsection (a). Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.

[(k) REFUGE ROADS.—

[(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for refuge roads shall be used by the Secretary and the Secretary of the Interior only to pay the cost of—

[(A) maintenance and improvements of refuge roads;

[(B) maintenance and improvements of eligible projects described in paragraphs (2), (3), (5), and (6) of subsection (h) that are located in or adjacent to wildlife refuges;

[(C) administrative costs associated with such maintenance and improvements;

[(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

[(E) maintenance and improvement of recreational trails; except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year.

[(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the Interior, as appropriate, may enter into contracts with a State or civil subdivision of a State or Indian tribe as is determined advisable.

[(3) COMPLIANCE WITH OTHER LAW.—Funds made available for refuge roads shall be used only for projects that are in compliance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

[(1) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

[(1) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

[(A) Indian reservation roads; and

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[(B) roads providing access to Indian reservation roads.

[(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

[(A) shall be negotiated between the State and the Indian tribe; and

[(B) shall not require the approval of the Secretary.

[(3) ANNUAL REPORT.—Effective beginning with fiscal year 2005, the Secretary shall prepare and submit to Congress an annual report that identifies—

[(A) the Indian tribes and States that have entered into agreements under paragraph (1);

[(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

[(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).]

§201. General provisions

(a) *PURPOSE.—Recognizing the need for all Federal lands transportation facilities and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public road and transit facilities constructed with Federal assistance, the Secretary, in consultation with the Secretary of each Federal land management agency, shall establish and coordinate, in accordance with the requirements of this section, a uniform policy for all transportation facilities constructed under a covered program.*

(b) *COVERED PROGRAM DEFINED.—In this section, the term “covered program” means—*

(1) *the tribal transportation program established under section 202; and*

(2) *the Federal lands transportation program established under section 203.*

(c) *AVAILABILITY OF FUNDS.—*

(1) *AVAILABILITY.—Funds made available to carry out a covered program shall be available for contract—*

(A) *upon apportionment; or*

(B) *if no apportionment is required, on October 1 of the fiscal year for which authorized.*

(2) *PERIOD OF AVAILABILITY.—Funds apportioned or allocated to carry out a covered program shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.*

(3) *AUTHORITY OF DEPARTMENT SECRETARIES.—*

(A) *AUTHORITY TO INCUR OBLIGATIONS, APPROVE PROJECTS, AND ENTER INTO CONTRACTS.—The Secretary of a Department charged with the administration of funds made available to carry out a covered program may incur obligations, approve projects, and enter into contracts with respect to such funds.*

(B) **CONTRACTUAL OBLIGATIONS.**—A Secretary's action under subparagraph (A) shall be deemed to be a contractual obligation of the United States to pay the cost thereof, and the funds subject to the action shall be deemed to have been expended when so obligated.

(4) **EXPENDITURE.**—Any funds made available to carry out a covered program for a fiscal year shall be deemed to have been expended if a sum equal to the total of the sums appropriated for the fiscal year and previous fiscal years have been obligated. Any of such funds released by payment of final voucher or modification of project authorizations shall be credited to the balance of unobligated appropriations and be immediately available for expenditure.

(5) **AUTHORITY OF SECRETARY.**—

(A) **OBLIGATING FUNDS FOR COVERED PROGRAMS.**—Notwithstanding any other provision of law, either of the following actions shall be deemed to constitute a contractual obligation of the United States to pay the total eligible cost of any construction project funded under a covered program:

(i) The authorization by the Secretary, or the Secretary of a Department charged with the administration of funds made available to carry out a covered program, of engineering and related work for the development, design, and acquisition associated with the project, whether performed by contract or agreement authorized by law.

(ii) The approval by the Secretary, or the Secretary of a Department charged with the administration of funds made available to carry out a covered program, of plans, specifications, and estimates for the project.

(B) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this paragraph may be construed to affect the application of the Federal share associated with a project undertaken under a covered program or to modify the point of obligation associated with Federal salaries and expenses.

(6) **REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.**—To the extent that the Secretary is otherwise required to redistribute unused obligation authority appropriated for purposes other than section 202, a minimum of 10 percent of such unused obligation authority shall be allocated and distributed by the Secretary to entities eligible to receive funds under such section for purposes of funding competitively awarded high priority projects ensuring greater safe access to markets for American Indian and Alaska Native communities that are, relative to other American Indian and Alaska Native communities, more remotely located from product and essential service markets.

(d) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—Except as provided by paragraph (2), the Federal share payable on account of a project carried out under a covered program shall be 100 percent of the total cost of the project.

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(2) *OPERATING ASSISTANCE.*—The Federal share payable, with amounts made available to carry out this chapter, on account of operating expenses for a project carried out under the Federal lands transportation program established under section 203 may not exceed 50 percent of the net operating costs, as determined by the Secretary.

(e) *TRANSPORTATION PLANNING.*—

(1) *TRANSPORTATION PLANNING PROCEDURES.*—In consultation with the Secretary of each Federal land management agency, the Secretary shall implement transportation planning procedures for tribal transportation facilities and Federal lands transportation facilities that are consistent with the planning processes required under sections 5203 and 5204 of title 49.

(2) *APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.*—A transportation improvement program developed as a part of the transportation planning process under this subsection shall be subject to approval by the Secretary, acting in coordination with the Secretary of the appropriate Federal land management agency.

(3) *INCLUSION IN OTHER PLANS.*—Any project under a covered program that is regionally significant shall—

(A) be developed in cooperation with appropriate States and metropolitan planning organizations; and

(B) be included in—

(i) plans for the covered program;

(ii) appropriate State and metropolitan long-range transportation plans; and

(iii) appropriate State and metropolitan transportation improvement programs.

(4) *INCLUSION IN STATE PROGRAMS.*—A transportation improvement program that is approved by the Secretary as a part of the transportation planning process under this subsection shall be included in appropriate plans and programs of States and metropolitan planning organizations without further action on the transportation improvement program.

(5) *ASSET MANAGEMENT.*—The Secretary and the Secretary of each Federal land management agency, to the extent appropriate, shall have in effect safety, bridge, pavement, and congestion management systems in support of asset management for highways funded under a covered program.

(6) *DATA COLLECTION.*—

(A) *IN GENERAL.*—The Secretary of each Federal land management agency shall collect and report on the data that is necessary to implement a covered program, including at a minimum—

(i) inventory and condition information on tribal roads and Federal lands highways; and

(ii) bridge inspection and inventory information on any Federal bridge that is open to the public.

(B) *STANDARDS.*—The Secretary, in coordination with the Secretary of each Federal land management agency, shall define collection and reporting data standards for purposes of subparagraph (A).

(C) **TRIBAL TRANSPORTATION PROGRAM.**—Each Secretary collecting data under this paragraph relating to the tribal transportation program established under section 202 shall collect such data consistent with the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(7) **ADMINISTRATIVE EXPENSES.**—The Secretary may use up to 5 percent of the funds made available to carry out section 203 for a fiscal year for purposes of implementing the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies.

(f) **REFERENCES TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.**—In this chapter, the term “Secretary”, when used in connection with a Federal land management agency, means the Secretary of the department that contains the agency.

§ 202. Tribal transportation program

(a) **IN GENERAL.**—The Secretary shall carry out a tribal transportation program in accordance with the requirements of this section.

(b) **USE OF FUNDS.**—

(1) **IN GENERAL.**—Funds made available to carry out the tribal transportation program shall be used by the Secretary and the Secretary of the Interior to pay for the following:

(A) The covered costs of—

(i) tribal roads;

(ii) vehicular parking areas adjacent to tribal roads (which may include electric vehicle charging stations);

(iii) pedestrian walkways and bicycle transportation facilities (as defined in section 217) on tribal lands; and

(iv) roadside rest areas, including sanitary and water facilities, on tribal lands.

(B) The costs of transportation projects eligible for assistance under this title that are within, or provide access to, tribal lands.

(C) The costs of public transportation projects eligible for assistance under section 5311(b)(1) of title 49 that are within, or provide access to, tribal lands (without regard to whether the project is located in an urbanized area).

(D) The costs of rehabilitation, restoration, and construction of interpretive signage at tribal roads.

(E) The costs of acquisition of necessary scenic easements and scenic or historic sites associated with tribal roads.

(2) **COVERED COSTS DEFINED.**—In paragraph (1), the term “covered costs” means the costs of transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction.

(3) **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 such activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(4) **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).

(5) **FEDERAL EMPLOYMENT.**—No maximum limitation on Federal employment shall apply to construction or improvement of tribal transportation facilities.

(6) **ADMINISTRATIVE EXPENSES.**—

(A) **IN GENERAL.**—Of the funds made available to carry out the tribal transportation program for a fiscal year, up to 5 percent may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative expenses.

(B) **RESERVATION OF FUNDS.**—The Secretary of the Interior may reserve funds 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 funds allocated to an Indian tribe under the tribal transportation program for a fiscal year, the Indian tribe, or the Secretary with the consent of the affected Indian tribe, may use for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation) an amount that does not exceed the greater of—

(i) 25 percent of the funds; or

(ii) \$500,000.

(B) **ROAD MAINTENANCE PROGRAMS ON INDIAN RESERVATIONS.**—

(i) **BIA RESPONSIBILITY.**—The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.

(ii) **FUNDING.**—The Secretary of the Interior shall ensure that funding made available under this paragraph for maintenance of tribal transportation facilities for a 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) **AUTHORITY TO ENTER INTO AGREEMENTS.**—An Indian tribe and a State may enter into a road maintenance agreement under which the Indian tribe assumes the responsibilities of the State for tribal transportation facilities.

(ii) **NEGOTIATIONS.**—Agreements entered into under clause (i)—

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(I) shall be negotiated between the State and the Indian tribe; and

(II) shall not require the approval of the Secretary.

(8) COOPERATION OF STATES AND COUNTIES.—

(A) IN GENERAL.—The cooperation of States, counties, and other political subdivisions of States may be accepted in construction and improvement of tribal transportation facilities.

(B) CREDITING OF FUNDS.—Any funds received from a State, county, or other political subdivision of a State for construction or improvement of tribal transportation facilities shall be credited to appropriations available for the tribal transportation program.

(C) STATE USE OF FEDERAL FUNDS FOR TRIBAL TRANSPORTATION FACILITIES.—

(i) IN GENERAL.—A State may provide a portion of Federal funds apportioned to the State under chapter 1 to an Indian tribe for an eligible tribal transportation facility.

(ii) PROCEDURE.—If a State elects to provide funds to an Indian tribe under clause (i), the State shall transfer the funds back to the Secretary and the Secretary shall transfer the funds to the Indian tribe constructing or maintaining the eligible tribal transportation facility under an agreement pursuant to this paragraph.

(iii) CONSTRUCTION RESPONSIBILITY.—Notwithstanding any other provision of law, if a State provides funds referred to in clause (i) to an Indian tribe—

(I) the State shall not be responsible for constructing or maintaining a project carried out using the funds or for administering or supervising the project or funds during the applicable statute of limitations period of such State with respect to actions related to the construction of the project; and

(II) the Indian tribe receiving the funds shall be responsible for constructing and maintaining a project carried out using the funds and for administering and supervising the project and funds in accordance with this section during the period referred to in subclause (I).

(9) COMPETITIVE BIDDING.—

(A) IN GENERAL.—Construction of a project under the tribal transportation program shall be performed pursuant to a contract awarded by competitive bidding or other procurement process authorized under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) unless the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, some other method is in the public interest.

(B) APPLICABILITY OF OTHER LAWS.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910

(36 Stat. 861; known as the Buy Indian Act) and section 7(b) of the Indian Self-Determination and Education Assistance Act (88 Stat. 2205) shall apply to all funds administered by the Secretary of the Interior that are appropriated for the construction and improvement of tribal roads.

(c) FUNDS DISTRIBUTION.—

(1) IN GENERAL.—All funds authorized to be appropriated for the tribal transportation program shall be allocated among Indian tribes in accordance with the formula maintained by the Secretary of the Interior under paragraph (4).

(2) 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. The Secretary of the Interior, in cooperation with the Secretary, by September 30, 2012, and by September 30 of every second year thereafter, shall accept into the comprehensive national inventory those tribal transportation facilities proposed by Indian tribes under the regulations.

(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 in the comprehensive national inventory, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that a 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 Trust Fund under the Indian reservation roads program since 1983;

(v) are community streets or bridges within the exterior boundary of Indian reservations, Alaska native villages, or other recognized Indian communities (including communities in former Indian reservations in Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or

(vi) 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.

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(D) **ADDITIONAL FACILITIES.**—Nothing in this paragraph shall preclude the Secretary of the Interior from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory 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 151.

(3) **REGULATIONS.**—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain regulations governing the tribal transportation program and the funding formula under paragraph (4) in accordance with established policies and procedures.

(4) **BASIS FOR FUNDING FORMULA FACTORS.**—

(A) **IN GENERAL.**—The funding formula established under this paragraph shall be based on factors that reflect—

(i) the relative needs among the Indian tribes, and reservation or tribal communities, for transportation assistance; and

(ii) the relative administration capacities of, and challenges faced by, various Indian tribes, including the cost of road construction in each Bureau of Indian Affairs area, geographic isolation, and difficulty in maintaining all-weather access to employment, commerce, health, safety, and educational resources.

(B) **TRIBAL HIGH PRIORITY PROJECTS.**—The tribal 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 American Energy and Infrastructure Jobs Act of 2012), shall continue in effect.

(5) **DISTRIBUTION OF FUNDS TO INDIAN TRIBES.**—

(A) **IN GENERAL.**—Not later than 30 days after the date on which funds are made available to the Secretary or the Secretary of the Interior for a fiscal year to carry out the tribal transportation program, the funds shall be distributed to, and available for immediate use by, eligible Indian tribes in accordance with the formula maintained by the Secretary of the Interior under paragraph (4).

(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.

(6) **HEALTH AND SAFETY ASSURANCES.**—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates for, and may commence, a project for construction of a tribal transportation facility with funds made available to carry out the tribal transportation program through a contract or agreement entered into under the 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 for the project from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards;

(C) provides a copy of the certification under subparagraph (A) to the Deputy Assistant Secretary for Tribal Government Affairs of the Department of Transportation or the Assistant Secretary of Indian Affairs of the Department of the Interior, as appropriate; and

(D) except with respect to a transportation facility owned by the Bureau of Indian Affairs or an Indian tribe, obtains the advance written approval of the plans, specifications, and estimates from the facility owner or public authority having maintenance responsibility for the facility and provides a copy of the approval to the officials referred to in subparagraph (C).

(7) **CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES FOR PROGRAM COSTS.—**

(A) **IN GENERAL.**—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available under this chapter and section 125(e) for tribal transportation facilities to pay for the costs of programs, services, functions, and activities, or portions thereof, that are specifically or functionally related to the cost of any tribal transportation facility that provides access to or is located within the reservation or community of an Indian tribe 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 the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(B) **EXCLUSION OF AGENCY PARTICIPATION.**—Funds for programs, functions, services, or activities, or portions thereof (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 Transportation or the Department of the Interior has previously carried out such programs, functions, services, or activities.

(8) **CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES FOR TRIBAL TRANSPORTATION FACILITY PROGRAMS AND PROJECTS.—**

(A) **IN GENERAL.**—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this title or chapter 53 of title 49 for a tribal transportation facility program or project that is located on an Indian reservation or provides access to the reservation or a community of an Indian tribe shall be made available, on the request of the Indian tribal

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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, agreements, and grants 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 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, 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 in accordance with and governed by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) 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), 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 the 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 made.

(ii) **CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.**—If an Indian tribal government did not have an uncorrected significant and material audit exception in a required annual audit of the Indian tribal government's self-determination contracts or self-governance funding agreements with a Federal agency during the 3-fiscal year period referred in clause (i), the Indian tribe shall be

treated as having conclusive evidence of its financial stability and financial management capability 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 or 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 or 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 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 resolutions and appeal procedures authorized by such Act, including regulations issued to carry out such 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.*

(d) **PLANNING BY INDIAN TRIBAL GOVERNMENTS.**—

(1) **IN GENERAL.**—*Of the funds made available for a fiscal year to carry out the tribal transportation program, the greater of 2 percent or \$35,000 may be allocated to Indian tribal governments that have been authorized to conduct transportation planning pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).*

(2) **COOPERATION.**—*An Indian tribal government described in paragraph (1), 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(e).*

(3) **APPROVAL.**—*Projects selected by an Indian tribal government described in paragraph (1) from a transportation im-*

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provement program shall be subject to the approval of the Secretary of the Interior and the Secretary.

(e) **FEDERAL-AID ELIGIBLE PROJECT.**—Before approving as a project on a tribal transportation facility any project eligible funds apportioned under section 104 in a State, the Secretary shall determine that the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on tribal transportation facilities, of a fair and equitable share of funds apportioned to such State under section 104.

(f) **ELIGIBILITY FOR DISCRETIONARY AND COMPETITIVE GRANTS.**—Notwithstanding any other provision of law, an Indian tribe may directly apply for and receive any discretionary or competitive grant made available to a State or a political subdivision of a State under this title or chapter 53 of title 49 in the same manner and under the same circumstances as a State or a political subdivision of a State.

§203. Federal lands transportation program

(a) **IN GENERAL.**—The Secretary shall carry out a Federal lands transportation program in accordance with the requirements of this section.

(b) **USE OF FUNDS.**—

(1) **IN GENERAL.**—Funds made available to carry out the Federal lands transportation program shall be used by the Secretary and the Secretaries of Federal land management agencies to pay for the following:

(A) The covered costs of—

- (i) Federal lands highways;
- (ii) vehicular parking areas adjacent to Federal lands highways (which may include electric vehicle charging stations);
- (iii) pedestrian walkways and bicycle transportation facilities (as defined in section 217) on Federal lands; and
- (iv) roadside rest areas, including sanitary and water facilities, on Federal lands.

(B) The costs of transportation projects on public roads or trails eligible for assistance under this title that are within, or provide access to, Federal lands.

(C) The costs of public transportation projects eligible for assistance under section 5311(b)(1) of title 49 that are within, or provide access to, Federal lands (without regard to whether the project is located in an urbanized area).

(D) The costs of rehabilitation, restoration, and construction of interpretive signage at Federal lands highways.

(E) The costs of acquisition of necessary scenic easements and scenic or historic sites associated with Federal lands highways.

(2) **COVERED COSTS DEFINED.**—In paragraph (1), the term “covered costs” means the costs of program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction.

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(3) **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 such activity with—

(A) a State (including a political subdivision of a State); or

(B) an Indian tribe.

(4) **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 management agency.

(5) **COOPERATION.**—

(A) **IN GENERAL.**—The cooperation of States and political subdivisions of States may be accepted in construction and improvement of Federal lands transportation facilities.

(B) **CREDITING OF FUNDS.**—Any funds received from a State or a political subdivision of a State for such construction or improvement of Federal lands transportation facilities shall be credited to appropriations available for the class of Federal lands transportation facilities to which funds were contributed.

(6) **COMPETITIVE BIDDING.**—Construction of a project under the Federal lands transportation program shall be performed pursuant to a contract awarded by competitive bidding unless the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, some other method is in the public interest.

(c) **AGENCY PROGRAM DISTRIBUTIONS.**—

(1) **IN GENERAL.**—On October 1 of each fiscal year, the Secretary shall allocate the funds made available to carry out the Federal lands transportation program for the fiscal year on the basis of applications of need, as determined by the Secretary, and in coordination with the transportation plans required by section 201(e), of the respective transportation systems of the Federal land management agencies.

(2) **MINIMUM ALLOCATIONS.**—When making an allocation of funds under paragraph (1) for a fiscal year, the Secretary shall ensure that, of the total amount of funds subject to the allocation—

(A) the National Park Service receives, at a minimum, 38 percent;

(B) the Forest Service receives, at a minimum, 32 percent; and

(C) the United States Fish and Wildlife Service receives, at a minimum, 4.5 percent.

(3) **APPLICATIONS.**—

(A) **IN GENERAL.**—The Secretary of a Federal land management agency may submit to the Secretary an application for assistance under the Federal lands transportation program.

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(B) CONTENTS.—An application submitted by the Secretary of a Federal land management agency under subparagraph (A) shall contain such information as the Secretary may require, including a description of any proposed program for which the agency is seeking assistance and the potential funding levels for the program.

(C) CONSIDERATIONS.—In reviewing a proposed program described in an application submitted by the Secretary of a Federal land management agency under subparagraph (A), the Secretary shall consider the extent to which the program supports—

- (i) a state of good repair of transportation facilities across the agency's inventory;
- (ii) a reduction of deficient bridges across the agency's inventory;
- (iii) improvement of safety across the agency's inventory;
- (iv) high use Federal recreation sites or Federal economic generators; and
- (v) the resource management goals of the Secretary of the respective Federal land management agency.

(d) NATIONAL FEDERAL LANDS HIGHWAYS INVENTORY.—

(1) IN GENERAL.—The Secretaries of the Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of Federal lands highways.

(2) HIGHWAYS INCLUDED IN THE INVENTORY.—For purposes of identifying the Federal lands transportation system and determining the relative transportation needs among Federal land management agencies, the inventory shall include, at a minimum, highways that—

(A) provide access to high use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the Secretaries of the Federal land management agencies; and

(B) are administered by a Federal land management agency.

(3) AVAILABILITY.—The Secretary of each Federal land management agency shall maintain an inventory of the Federal lands highways administered by the agency and make the inventory available to the Secretary.

(4) UPDATES.—The Secretary of each Federal land management agency shall update its inventory referred to in paragraph (3) as determined by the Secretary.

(5) REVIEW.—A decision to add or remove a highway from an inventory referred to in paragraph (1) or (4) 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.).

§ 205. Forest development roads and trails

(a) * * *

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(d) Funds available for forest development roads and trails shall be available for adjacent vehicular parking areas (*which may include electric vehicle charging stations*) and for sanitary, water, and fire control facilities.

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§ 207. Tribal transportation self-governance program

(a) **ESTABLISHMENT.**—Subject to the requirements of this section, the Secretary shall establish and carry out a program to be known as the tribal transportation self-governance program. The Secretary may delegate responsibilities for administration of the program as the Secretary determines appropriate.

(b) **ELIGIBILITY.**—

(1) **IN GENERAL.**—An Indian tribe shall be eligible to participate in the program if the Indian tribe—

(A) requests participation in the program by resolution or other official action by the governing body of the Indian tribe; and

(B) demonstrates, for the preceding 3 fiscal years, financial stability and financial management capability.

(2) **CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.**—For the purposes of paragraph (1)(B), evidence that, during the preceding 3 fiscal years, an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

(c) **COMPACTS.**—

(1) **COMPACT REQUIRED.**—Upon the request of an eligible Indian tribe, and subject to the requirements of this section, the Secretary shall negotiate and enter into a written compact with the Indian tribe for the purpose of providing for the participation of the Indian tribe in the program.

(2) **CONTENTS.**—A compact entered into under paragraph (1) shall set forth the general terms of the government-to-government relationship between the Indian tribe and the United States under the program and other terms that will continue to apply in future fiscal years.

(3) **AMENDMENTS.**—A compact entered into with an Indian tribe under paragraph (1) may be amended only by mutual agreement of the Indian tribe and the Secretary.

(d) **ANNUAL FUNDING AGREEMENTS.**—

(1) **FUNDING AGREEMENT REQUIRED.**—After entering into a compact with an Indian tribe under subsection (c), the Secretary shall negotiate and enter into a written annual funding agreement with the Indian tribe.

(2) **CONTENTS.**—

(A) **IN GENERAL.**—

(i) **DISCRETIONARY AND COMPETITIVE GRANTS.**—A funding agreement entered into with an Indian tribe shall authorize the Indian tribe, as determined by the Indian tribe, to plan, conduct, consolidate, administer,

and receive full tribal share funding and funding to tribes from discretionary and competitive grants administered by the Department for all programs, services, functions, and activities (or portions thereof) that are made available to Indian tribes to carry out tribal transportation programs and programs, services, functions, and activities (or portions thereof) administered by the Secretary that are otherwise available to Indian tribes.

(ii) TRANSFERS OF STATE FUNDS.—

(I) INCLUSION OF TRANSFERRED FUNDS IN FUNDING AGREEMENT.—A funding agreement entered into with an Indian tribe shall include Federal-aid funds apportioned to a State under chapter 1 if the State elects to provide a portion of such funds to the Indian tribe for a project eligible under section 202(b).

(II) METHOD FOR TRANSFERS.—If a State elects to provide funds described in subclause (I) to an Indian tribe, the State shall transfer the funds back to the Secretary and the Secretary shall transfer the funds to the Indian tribe in accordance with this section.

(III) RESPONSIBILITY FOR TRANSFERRED FUNDS.—Notwithstanding any other provision of law, if a State provides funds described in subclause (I) to an Indian tribe—

(aa) the State shall not be responsible for constructing or maintaining a project carried out using the funds or for administering or supervising the project or funds during the applicable statute of limitations period related to the construction of the project; and

(bb) the Indian tribe shall be responsible for constructing and maintaining a project carried out using the funds and for administering and supervising the project and funds in accordance with this section during the applicable statute of limitations period related to the construction of the project.

(B) ADMINISTRATION OF TRIBAL SHARES.—The tribal shares referred to in subparagraph (A) shall be provided without regard to the agency or office of the Department within which the program, service, function, or activity (or portion thereof) is performed.

(C) FLEXIBLE AND INNOVATIVE FINANCING.—

(i) IN GENERAL.—A funding agreement entered into with an Indian tribe under paragraph (1) shall include provisions pertaining to flexible and innovative financing if agreed upon by the parties.

(ii) TERMS AND CONDITIONS.—

(I) AUTHORITY TO ISSUE REGULATIONS.—The Secretary may issue regulations to establish the terms and conditions relating to the flexible and

innovative financing provisions referred to in clause (i).

(II) **TERMS AND CONDITIONS IN ABSENCE OF REGULATIONS.**—If the Secretary does not issue regulations under subclause (I), the terms and conditions relating to the flexible and innovative financing provisions referred to in clause (i) shall be consistent with—

(aa) agreements entered into by the Department under section 202(c)(8) before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012; or

(bb) regulations of the Department of the Interior relating to flexible financing contained in part 170 of title 25, Code of Federal Regulations, as in effect on the date of enactment of such Act.

(3) **DISCRETIONARY AND COMPETITIVE GRANTS.**—Notwithstanding any other provision of law, an Indian tribe shall be eligible to directly apply for and receive the discretionary and competitive grants made available under transportation programs that States or political subdivisions of States are eligible to apply for and receive.

(4) **TERMS.**—A funding agreement shall set forth—

(A) terms that generally identify the programs, services, functions, and activities (or portions thereof) to be performed or administered by the Indian tribe; and

(B) for items identified in subparagraph (A)—

(i) the general budget category assigned;

(ii) the funds to be provided, including those funds to be provided on a recurring basis;

(iii) the time and method of transfer of the funds;

(iv) the responsibilities of the Secretary and the Indian tribe; and

(v) any other provision agreed to by the Indian tribe and the Secretary.

(5) **SUBSEQUENT FUNDING AGREEMENTS.**—

(A) **APPLICABILITY OF EXISTING AGREEMENT.**—Absent notification from an Indian tribe that the Indian tribe is withdrawing from or retroceding the operation of one or more programs, services, functions, or activities (or portions thereof) identified in a funding agreement, or unless otherwise agreed to by the parties, each funding agreement shall remain in full force and effect until a subsequent funding agreement is executed.

(B) **EFFECTIVE DATE OF SUBSEQUENT AGREEMENT.**—The terms of the subsequent funding agreement shall be retroactive to the end of the term of the preceding funding agreement.

(6) **CONSENT OF INDIAN TRIBE REQUIRED.**—The Secretary shall not revise, amend, or require additional terms in a new or subsequent funding agreement without the consent of the Indian tribe that is subject to the agreement unless such terms are required by Federal law.

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(e) GENERAL PROVISIONS.—

(1) REDESIGN AND CONSOLIDATION.—

(A) IN GENERAL.—An Indian tribe, in any manner that the Indian tribe considers to be in the best interest of the Indian community being served, may—

(i) redesign or consolidate programs, services, functions, and activities (or portions thereof) included in a funding agreement; and

(ii) reallocate or redirect funds for such programs, services, functions, and activities (or portions thereof), if the funds are—

(I) expended on projects identified in a transportation improvement program approved by the Secretary; and

(II) used in accordance with appropriations Acts and other applicable statutory limitations.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if, pursuant to subsection (d), an Indian tribe receives a discretionary or competitive grant from the Secretary or receives State apportioned funds, the Indian tribe shall use the funds for the purpose for which the funds were originally authorized.

(2) RETROCESSION.—

(A) IN GENERAL.—

(i) AUTHORITY OF INDIAN TRIBES.—An Indian tribe may retrocede (fully or partially) to the Secretary programs, services, functions, or activities (or portions thereof) included in a compact or funding agreement.

(ii) REASSUMPTION OF REMAINING FUNDS.—Following a retrocession described in clause (i), the Secretary may—

(I) reassume the remaining funding associated with the retroceded programs, functions, services, and activities (or portions thereof) included in the applicable compact or funding agreement;

(II) out of such remaining funds, transfer funds associated with Department of Interior programs, services, functions, or activities (or portions thereof) to the Secretary of the Interior to carry out transportation services provided by the Secretary of the Interior; and

(III) distribute funds not transferred under subclause (II) in accordance with applicable law.

(iii) CORRECTION OF PROGRAMS.—If the Secretary makes a finding under subsection (f)(2)(B) and no funds are available under subsection (f)(2)(A)(ii), the Secretary shall not be required to provide additional funds to complete or correct any programs, functions, or activities (or portions thereof).

(B) EFFECTIVE DATE.—Unless the Indian tribe rescinds a request for retrocession, the retrocession shall become effective within the timeframe specified by the parties in the compact or funding agreement. In the absence of such a specification, the retrocession shall become effective on—

(i) the earlier of—

(I) 1 year after the date of submission of the request; or

(II) the date on which the funding agreement expires; or

(ii) such date as may be mutually agreed upon by the parties and, with respect to Department of the Interior programs, functions, services, and activities (or portions thereof), the Secretary of the Interior.

(f) PROVISIONS RELATING TO THE SECRETARY.—

(1) DECISIONMAKER.—A decision that constitutes a final agency action and relates to an appeal of the rejection of a final offer by the Department shall be made either—

(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

(B) by an administrative judge.

(2) TERMINATION OF COMPACT OR FUNDING AGREEMENT.—

(A) AUTHORITY TO TERMINATE.—

(i) PROVISION TO BE INCLUDED IN COMPACT OR FUNDING AGREEMENT.—A compact or funding agreement shall include a provision authorizing the Secretary, if the Secretary makes a finding described in subparagraph (B), to—

(I) terminate the compact or funding agreement (or a portion thereof); and

(II) reassume the remaining funding associated with the reassumed programs, functions, services, and activities included in the compact or funding agreement.

(ii) TRANSFERS OF FUNDS.—Out of any funds reassumed under clause (i)(II), the Secretary may transfer the funds associated with Department of the Interior programs, functions, services, and activities (or portions thereof) to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

(B) FINDINGS RESULTING IN TERMINATION.—The finding referred to in subparagraph (A) is a specific finding of—

(i) imminent jeopardy to a trust asset, natural resources, or public health and safety that is caused by an act or omission of the Indian tribe and that arises out of a failure to carry out the compact or funding agreement, as determined by the Secretary; or

(ii) gross mismanagement with respect to funds or programs transferred to the Indian tribe under the compact or funding agreement, as determined by the Secretary in consultation with the Inspector General of the Department, as appropriate.

(C) PROHIBITION.—The Secretary shall not terminate a compact or funding agreement (or portion thereof) unless—

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(i) the Secretary has first provided written notice and a hearing on the record to the Indian tribe that is subject to the compact or funding agreement; and

(ii) the Indian tribe has not taken corrective action to remedy the mismanagement of funds or programs or the imminent jeopardy to a trust asset, natural resource, or public health and safety.

(D) EXCEPTION.—

(i) IN GENERAL.—Notwithstanding subparagraph (C), the Secretary, upon written notification to an Indian tribe that is subject to a compact or funding agreement, may immediately terminate the compact or funding agreement (or portion thereof) if—

(I) the Secretary makes a finding of imminent substantial and irreparable jeopardy to a trust asset, natural resource, or public health and safety; and

(II) the jeopardy arises out of a failure to carry out the compact or funding agreement.

(ii) HEARINGS.—If the Secretary terminates a compact or funding agreement (or portion thereof) under clause (i), the Secretary shall provide the Indian tribe subject to the compact or agreement with a hearing on the record not later than 10 days after the date of such termination.

(E) BURDEN OF PROOF.—In any hearing or appeal involving a decision to terminate a compact or funding agreement (or portion thereof) under this paragraph, the Secretary shall have the burden of proof in demonstrating by clear and convincing evidence the validity of the grounds for the termination.

(g) COST PRINCIPLES.—In administering funds received under this section, an Indian tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as modified by section 106 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j-1), other provisions of law, or by any exemptions to applicable Office of Management and Budget circulars subsequently granted by the Office of Management and Budget. No other audit or accounting standards shall be required by the Secretary. Any claim by the Federal Government against the Indian tribe relating to funds received under a funding agreement based on any audit conducted pursuant to this subsection shall be subject to the provisions of section 106(f) of such Act (25 U.S.C. 450j-1(f)).

(h) TRANSFER OF FUNDS.—The Secretary shall provide funds to an Indian tribe under a funding agreement in an amount equal to—

(1) the sum of the funding that the Indian tribe would otherwise receive for the program, function, service, or activity in accordance with a funding formula or other allocation method established under this title or chapter 53 of title 49; and

(2) 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.

(i) CONSTRUCTION PROGRAMS.—

(1) STANDARDS.—Construction projects carried out under programs administered by an Indian tribe with funds transferred to the Indian tribe pursuant to a funding agreement entered into under this section shall be constructed pursuant to the construction program standards set forth in applicable regulations or as specifically approved by the Secretary (or the Secretary's designee).

(2) MONITORING.—Construction programs shall be monitored by the Secretary in accordance with applicable regulations.

(j) FACILITATION.—

(1) SECRETARIAL INTERPRETATION.—Except as otherwise provided by law, the Secretary shall interpret all Federal laws, Executive orders, and regulations in a manner that will facilitate—

(A) the inclusion of programs, services, functions, and activities (or portions thereof) and funds associated therewith, in compacts and funding agreements; and

(B) the implementation of the compacts and funding agreements.

(2) REGULATION WAIVER.—

(A) IN GENERAL.—An Indian tribe may submit to the Secretary a written request to waive application of a regulation promulgated under this section with respect to a compact or funding agreement. The request shall identify the regulation sought to be waived and the basis for the request.

(B) APPROVALS AND DENIALS.—

(i) IN GENERAL.—Not later than 90 days after the date of receipt of a written request under subparagraph (A), the Secretary shall approve or deny the request in writing.

(ii) DENIALS.—The Secretary may deny a request under clause (i) only if the Secretary finds that the identified language in the regulation may not be waived because the waiver is prohibited by Federal law.

(iii) DEEMED APPROVAL.—If the Secretary does not approve or deny a request submitted under subparagraph (A) on or before the last day of the 90-day period referred to in clause (i), the request shall be deemed approved.

(iv) FINALITY OF DECISIONS.—A decision by the Secretary under this subparagraph shall be final for the Department.

(k) DISCLAIMERS.—

(1) EXISTING AUTHORITY.—Notwithstanding any other provision of law, upon the election of an Indian tribe, the Secretary shall—

(A) maintain current Federal Highway Administration Indian reservation roads program and funding agreements;

or

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(B) enter into new agreements under the authority of section 202(c)(8).

(2) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section may be construed to impair or diminish the authority of the Secretary under section 202(c)(8).

(I) **APPLICABILITY OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.**—Except to the extent in conflict with this section (as determined by the Secretary), the following provisions of the Indian Self-Determination and Education Assistance Act shall apply to compact and funding agreements (except that references to the Secretary of the Interior in such provisions shall be treated as a references to the Secretary of Transportation):

(1) Subsections (a), (b), (d), (g), and (h) of section 506 of such Act (25 U.S.C. 458aaa-5), relating to general provisions.

(2) Subsections (b) through (e) and (g) of section 507 of such Act (25 U.S.C. 458aaa-6), relating to provisions relating to the Secretary of Health and Human Services.

(3) Subsections (a), (b), (d), (e), (g), (h), (i), and (k) of section 508 of such Act (25 U.S.C. 458aaa-7), relating to transfer of funds.

(4) Section 510 of such Act (25 U.S.C. 458aaa-9), relating to Federal procurement laws and regulations.

(5) Section 511 of such Act (25 U.S.C. 458aaa-10), relating to civil actions.

(6) Subsections (a)(1), (a)(2), and (c) through (f) of section 512 of such Act (25 U.S.C. 458aaa-11), relating to facilitation, except that subsection (c)(1) of that section shall be applied by substituting "transportation facilities and other facilities" for "school buildings, hospitals, and other facilities".

(7) Subsections (a) and (b) of section 515 of such Act (25 U.S.C. 458aaa-14), relating to disclaimers.

(8) Subsections (a) and (b) of section 516 of such Act (25 U.S.C. 458aaa-15), relating to application of title I provisions.

(9) Section 518 of such Act (25 U.S.C. 458aaa-17), relating to appeals.

(m) **DEFINITIONS.**—

(1) **IN GENERAL.**—In this section, the following definitions apply (except as otherwise expressly provided):

(A) **COMPACT.**—The term "compact" means a compact between the Secretary and an Indian tribe entered into under subsection (c).

(B) **DEPARTMENT.**—The term "Department" means the Department of Transportation.

(C) **ELIGIBLE INDIAN TRIBE.**—The term "eligible Indian tribe" means an Indian tribe that is eligible to participate in the program, as determined under subsection (b).

(D) **FUNDING AGREEMENT.**—The term "funding agreement" means a funding agreement between the Secretary and an Indian tribe entered into under subsection (d).

(E) **INDIAN TRIBE.**—The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

In any case in which an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this part, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this title). In such event, the term "Indian tribe" as used in this part shall include such other authorized Indian tribe, inter-tribal consortium, or tribal organization.

(F) PROGRAM.—The term "program" means the tribal transportation self-governance program established under this section.

(G) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(H) TRANSPORTATION PROGRAMS.—The term "transportation programs" means all programs administered or financed by the Department under this title and chapter 53 of title 49.

(2) APPLICABILITY OF OTHER DEFINITIONS.—In this section, the definitions set forth in sections 4 and 505 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b; 458aaa) apply, except as otherwise expressly provided in this section.

(n) REGULATIONS.—

(1) IN GENERAL.—

(A) PROMULGATION.—Not later than 90 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this section.

(B) PUBLICATION OF PROPOSED REGULATIONS.—Proposed regulations to implement this section shall be published in the Federal Register by the Secretary not later than 21 months after such date of enactment.

(C) EXPIRATION OF AUTHORITY.—The authority to promulgate regulations under this paragraph shall expire 30 months after such date of enactment.

(D) EXTENSION OF DEADLINES.—A deadline set forth in subparagraph (B) or (C) may be extended up to 180 days if the negotiated rulemaking committee referred to in paragraph (2) concludes that the committee cannot meet the deadline and the Secretary so notifies the appropriate committees of Congress.

(2) COMMITTEE.—

(A) IN GENERAL.—A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this subsection shall have as its members only Federal and tribal government representatives, a majority of whom shall be nominated by and be representatives of Indian tribes with funding agreements under this title.

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(B) *REQUIREMENTS.*—The committee shall confer with, and accommodate participation by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

(C) *ADAPTATION OF PROCEDURES.*—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

(3) *EFFECT.*—The lack of promulgated regulations shall not limit the effect of this section.

(4) *EFFECT OF CIRCULARS, POLICIES, MANUALS, GUIDANCE, AND RULES.*—Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Department of Transportation, except regulations promulgated under this section.

* * * * *

[§ 212. Inter-American Highway

[(a) Funds appropriated for the Inter-American Highway shall be used to enable the United States to cooperate with the Governments of the American Republics situated in Central America - that is, with the Governments of the Republic of Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama - in the survey and construction of the Inter-American Highway within the borders of the aforesaid Republics, respectively. Not to exceed one-third of the appropriation authorized for each fiscal year may be expended without requiring the country or countries in which such funds may be expended to match any part thereof, if the Secretary of State shall find that the cost of constructing said highway in such country or countries will be beyond their reasonable capacity to bear. The remainder of such authorized appropriations shall be available for expenditure only when matched to the extent required by this section by the country in which such expenditure may be made. Expenditures from the funds available on a matching basis shall not be made for the survey and construction of any portion of said highway within the borders of any country named herein unless such country shall provide and make available for expenditure in conjunction therewith a sum equal to at least one-third of the expenditures that may be incurred by that Government and the United States on such portion of the highway. All expenditures by the United States under the provisions of this section for material, equipment, and supplies shall, whenever practicable, be made for products of the United States or of the country in which such survey or construction work is being carried on. Construction work to be performed under contract shall be advertised for a reasonable period by the Minister of Public Works, or other similar official, of the government concerned in each of the participating countries and contracts shall be awarded pursuant to such advertisements with the approval of the Secretary. No part of the appropriations authorized shall be available for obligation or expenditure for work

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on said highway in any cooperating country unless the government of said country shall have assented to the provisions of this section; shall have furnished satisfactory assurances that it has an organization adequately qualified to administer the functions required of such country under the provisions hereof; and then only as such country may submit requests, from time to time, for the construction of any portion of the highway to standards adequate to meet present and future traffic needs. No part of said appropriations shall be available for obligation or expenditure in any such country until the government of that country shall have entered into an agreement with the United States which shall provide, in part, that said country—

[(1) will provide, without participation of funds authorized, all necessary rights-of-way for the construction of said highway, which rights-of-way shall be of a minimum width where practicable of one hundred meters in rural areas and fifty meters in municipalities and shall forever be held inviolate as a part of the highway for public use;

[(2) will not impose any highway toll, or permit any such toll to be charged, for use by vehicles or persons of any portion of said highway constructed under the provisions of this section;

[(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of said highway by vehicles or persons from the United States that does not apply equally to vehicles or persons of such country;

[(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with the provisions of the Convention for the Regulation of Inter-American Automotive Traffic, which was opened for signature at the Pan American Union in Washington on December 15, 1943, and to which such country and the United States are parties, or of any other treaty or international convention establishing similar reciprocal recognition; and

[(5) will provide for the maintenance of said highway after its completion in condition adequately to serve the needs of present and future traffic.

[(b) The survey and construction work authorized by this section shall be under the administration of the Secretary, who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the American Republics named in subsection (a) of this section as may be required to carry out the purposes of this section shall be conducted through, or as authorized by, the Department of State.

[(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway construction or survey heretofore or hereafter undertaken in any of the countries enumerated in subsection (a) of this section, other than the expenditures authorized by the provisions of this section.

[(d) Appropriations made pursuant to any authorizations heretofore, or hereafter enacted for the Inter-American Highway shall be considered available for expenditure by the Secretary for nec-

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essary administrative and engineering expenses in connection with the Inter-American Highway program.]

* * * * *

§ 216. Darien Gap Highway

[(a) The United States shall cooperate with the Government of the Republic of Panama and with the Government of Colombia in the construction of approximately two hundred and fifty miles of highway in such countries in the location known as the "Darien Gap" to connect the Inter-American Highway authorized by section 212 of this title with the Pan American Highway System of South America. Such highway shall be known as the "Darien Gap Highway". Funds authorized by this section shall be obligated and expended subject to the same terms, conditions, and requirements with respect to the Darien Gap Highway as are funds authorized for the Inter-American Highway by subsection (a) of section 212 of this title.

[(b) The construction authorized by this section shall be under the administration of the Secretary, who shall consult with the appropriate officials of the Department of State with respect to matters involving the foreign relations of this Government, and such negotiations with the Governments of the Republic of Panama and Colombia as may be required to carry out the purposes of this section shall be conducted through, or authorized by, the Department of State.

[(c) The provisions of this section shall not create nor authorize the creation of any obligations on the part of the Government of the United States with respect to any expenditures for highway survey or construction heretofore or hereafter undertaken in Panama or Colombia, other than the expenditures authorized by the provision of this section.

[(d) Appropriations made pursuant to any authorization for the Darien Gap Highway shall be available for expenditure by the Secretary for necessary administrative and engineering expenses in connection with the Darien Gap Highway program.

[(e) For the purposes of this section the term "construction" does not include any costs of rights-of-way, relocation assistance, or the elimination of hazards of railway grade crossings.]

§ 217. Bicycle transportation and pedestrian walkways

(a) * * *

* * * * *

(c) USE OF [FEDERAL LANDS HIGHWAY] TRIBAL TRANSPORTATION PROGRAM AND FEDERAL LANDS TRANSPORTATION PROGRAM FUNDS FUNDS.—[Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways] Funds authorized for tribal transportation facilities and Federal lands transportation facilities shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities.

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[(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.]

[(e)] (d) BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, [then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations] *the State carrying out the rehabilitation or replacement is encouraged to provide such safe accommodations as part of the rehabilitation or replacement.*

[(f)] (e) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be determined in accordance with section 120(b).

[(g)] (f) PLANNING AND DESIGN.—
(1) * * *

* * * * *

[(h)] (g) USE OF MOTORIZED VEHICLES.—Motorized vehicles may not be permitted on trails and pedestrian walkways under this section, except for—
(1) * * *

* * * * *

[(i)] (h) TRANSPORTATION PURPOSE.—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

[(j)] (i) DEFINITIONS.—In this section, the following definitions apply:

(1) * * *
* * * * *

§ 218. Alaska Highway

(a) [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 out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended.] Notwithstanding any other provision of law [in addition to such funds,] upon agreement with the State of Alaska, the Secretary is authorized to expend on [such highway

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or] the Alaska Marine Highway System any Federal-aid highway funds apportioned to the State of Alaska under this title at a Federal share of 100 per centum. Notwithstanding any other provision of law, any obligation limitation enacted for fiscal year 1983 or for any other fiscal year thereafter, including any portion of any other fiscal year thereafter, shall not apply to projects authorized by the preceding sentence. [No expenditures shall be made for the construction of the portion of such highways that are in Canada until 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—

[(1) will provide, without participation of funds authorized under this title, all necessary right-of-way for the reconstruction of such highways;

[(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

[(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

[(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

[(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

[(b) The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.]

[(c)] (b) For purposes of this section, the term "Alaska Marine Highway System" includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.

* * * * *

CHAPTER 3—GENERAL PROVISIONS

Sec.	
301.	Freedom from tolls.
	* * * * *
[303.	Management systems.]
	* * * * *
[309.	Cooperation with other American Republics.]
	* * * * *
[322.	Magnetic levitation transportation technology deployment program.]
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327.	Surface transportation project delivery program.
	* * * * *
330.	Funding flexibility for transportation emergencies.

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331. Program for eliminating duplication of environmental reviews.

332. State performance of legal sufficiency reviews.

* * * * *

[§ 303. Management systems

[(a) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations for State development, establishment, and implementation of a system for managing each of the following:

- [(1) Highway pavement of Federal-aid highways.**
- [(2) Bridges on and off Federal-aid highways.**
- [(3) Highway safety.**
- [(4) Traffic congestion.**
- [(5) Public transportation facilities and equipment.**
- [(6) Intermodal transportation facilities and systems.**

In metropolitan areas, such systems shall be developed and implemented in cooperation with metropolitan planning organizations. Such regulations may include a compliance schedule for development, establishment, and implementation of each such system and minimum standards for each such system.

[(b) TRAFFIC MONITORING.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment.

[(c) STATE ELECTION.—A State may elect, at any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election.

[(d) PROCEDURAL REQUIREMENTS.—In developing and implementing a management system under this section, each State shall cooperate with metropolitan planning organizations for urbanized areas of the State and affected agencies receiving assistance under chapter 53 of title 49 and shall consider the results of the management systems in making project selection decisions under this title and under chapter 53.

[(e) INTERMODAL REQUIREMENTS.—The management system required under this section for intermodal transportation facilities and systems shall provide for improvement and integration of all of a State's transportation systems and shall include methods of achieving the optimum yield from such systems, methods for increasing productivity in the State, methods for increasing use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

[(f) REPORTS.—

[(1) ANNUAL REPORTS.—Not later than January 1 of each calendar year beginning after December 31, 1992, the Secretary shall transmit to Congress a report on the progress being made by the Secretary and the States in carrying out this section.

[(2) REPORT ON IMPLEMENTATION.—Not later than October 1, 1996, the Comptroller General, in consultation with States, shall transmit to Congress a report on the management sys-

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tems under this section, including recommendations as to whether, to what extent, and how the management systems should be implemented.

[(g) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned after September 30, 1991, under subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title for developing and establishing management systems required by this section and funds apportioned under section 144 of this title for developing and establishing the bridge management system required by this section.

[(h) REVIEW OF REGULATIONS.—Not later than 10 days after the date of issuance of any regulation under this section, the Secretary shall transmit a copy of such regulation to Congress for review.]

* * * * *

§ 306. Mapping

(a) IN GENERAL.—In carrying out the provisions of this title, the Secretary [may] shall, wherever practicable, authorize the use of photogrammetric methods in mapping, and the utilization of commercial enterprise for such services.

(b) GUIDANCE.—The Secretary shall issue guidance to encourage States to utilize, to the maximum extent practicable, private sector sources for surveying and mapping services for projects under this title. In carrying out this subsection, the Secretary shall recommend appropriate roles for [State and] *State government and private mapping and surveying activities, including—*

(1) * * *

* * * * *

(c) IMPLEMENTATION.—*The Secretary shall develop a process for the oversight and monitoring, on an annual basis, of the compliance of each State with the guidance issued under subsection (b).*

* * * * *

§ 308. Cooperation with Federal and State agencies and foreign countries

[(a) The Secretary is authorized to perform by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Government agencies, cooperating foreign countries, and State cooperating agencies, and reimbursement for such services, which may include depreciation on engineering and roadbuilding equipment used, shall be credited to the appropriation concerned.]

(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 Uni-*

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form Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(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.

* * * * *

[§ 309. Cooperation with other American Republics

[The President is authorized to utilize the services of the Federal Highway Administration in fulfilling the obligations of the United States under the Convention on the Pan-American Highway Between the United States and Other American Republics (51 Stat. 152), cooperating with several governments, members of the Organization of American States, in connection with the survey and construction of the Inter-American Highway, and for performing engineering service in the other American Republics for and upon the request of any agency or governmental corporation of the United States. To the extent authorized in appropriation acts, administrative funds available in accordance with subsection (a) of section 104 of this title shall be available annually for the purpose of this section.]

* * * * *

§ 313. Buy America

(a) * * *

* * * * *

(g) APPLICATION.—*The requirements of this section 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 one contract for the project is funded with amounts made available to carry out this title.*

(h) WAIVER REQUIREMENTS.—

(1) IN GENERAL.—*If the Secretary receives a request for a waiver under this section, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request.*

(2) NOTICE REQUIREMENTS.—*A notice provided under paragraph (1) shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation.*

(3) DETAILED JUSTIFICATION.—*If the Secretary issues a waiver under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the waiver that addresses the public comments received under paragraph (1) and shall ensure that such justification is published before the waiver takes effect.*

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§ 315. Rules, regulations, and recommendations

Except as provided in [sections 204(f) and 205(a) of this title] sections 203(b)(4) and 205(a), the Secretary is authorized to prescribe and promulgate all needful rules and regulations for the carrying out of the provisions of this title. The Secretary may make such recommendations to the Congress and State transportation departments as he deems necessary for preserving and protecting the highways and insuring the safety of traffic thereon.

* * * * *

§ 319. Landscaping and scenic enhancement

[(a) LANDSCAPE AND ROADSIDE DEVELOPMENT.—]The Secretary may approve as a part of the construction of Federal-aid highways the costs of landscape and roadside development, including acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities reasonably necessary to accommodate the traveling public, and for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to such highways.

[(b) PLANTING OF WILDFLOWERS.—

[(1) GENERAL RULE.—The Secretary shall require the planting of native wildflower seeds or seedlings, or both, as part of any landscaping project under this section. At least 1/4 of 1 percent of the funds expended for such landscaping project shall be used for such plantings.

[(2) WAIVER.—The requirements of this subsection may be waived by the Secretary if a State certifies that native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes.

[(3) GIFTS.—Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.]

* * * * *

§ 322. Magnetic levitation transportation technology deployment program

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

[(1) ELIGIBLE PROJECT COSTS.—The term “eligible project costs”—

[(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

[(B) includes the costs of preconstruction planning activities.

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

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

[(4) PARTNERSHIP POTENTIAL.—The term “partnership potential” has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1978).

[(b) FINANCIAL ASSISTANCE.—

[(1) IN GENERAL.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects selected under this section. Financial assistance made available under this section and projects assisted with the assistance shall be subject to section 5333(a) of title 49, United States Code.

[(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than 2/3.

[(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

[(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

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

[(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

[(2) require an amount of Federal funds for project financing that will not exceed the sum of—

[(A) the amounts made available under subsection (h)(1); and

[(B) the amounts made available by States under subsection (h)(3);

[(3) result in an operating transportation facility that provides a revenue producing service;

[(4) be undertaken through a public and private partnership, with at least 1/3 of full project costs paid using non-Federal funds;

[(5) satisfy applicable statewide and metropolitan planning requirements;

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

[(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

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[(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

[(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

[(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

[(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

[(3) States, regions, and localities financially contribute to the project;

[(4) implementation of the project will create new jobs in traditional and emerging industries;

[(5) the project will augment MAGLEV networks identified as having partnership potential;

[(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

[(7) financial assistance would foster the timely implementation of a project; and

[(8) life-cycle costs in design and engineering are considered and enhanced.

[(f) PROJECT SELECTION.—

[(1) PRECONSTRUCTION PLANNING ACTIVITIES.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 or more eligible projects to receive financial assistance for preconstruction planning activities, including—

[(A) preparation of such feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

[(B) pricing of the final design, engineering, and construction activities proposed to be assisted under paragraph (2); and

[(C) such other activities as are necessary to provide the Secretary with sufficient information to evaluate whether a project should receive financial assistance for final design, engineering, and construction activities under paragraph (2).

[(2) FINAL DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES.—After completion of preconstruction planning activities for all projects assisted under paragraph (1), the Secretary shall select 1 of the projects to receive financial assistance for final design, engineering, and construction activities.

[(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assist-

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ance under this section if the project is eligible under subsection (d) and selected under subsection (f).

[(h) FUNDING.—

[(1) IN GENERAL.—

[(A) CONTRACT AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—

[(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$15,000,000 for fiscal year 1999, \$20,000,000 for fiscal year 2000, and \$25,000,000 for fiscal year 2001.

[(ii) CONTRACT AUTHORITY.—Funds authorized by this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

[(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

[(II) the availability of the funds shall be determined in accordance with paragraph (2).

[(B) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

[(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section (other than subsection (i)) \$200,000,000 for each of fiscal years 2000 and 2001, \$250,000,000 for fiscal year 2002, and \$300,000,000 for fiscal year 2003.

[(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.

[(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

[(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

[(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Equity Act for the 21st Century, including loans, loan guarantees, and lines of credit.

[(i) LOW-SPEED PROJECT.—

[(1) IN GENERAL.—Notwithstanding any other provision of this section, of the funds made available by subsection (h)(1)(A) to carry out this section, \$5,000,000 shall be made available to the Secretary to make grants for the research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes in urban areas to demonstrate energy efficiency, congestion mitigation, and safety benefits.

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[(2) NONCONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

[(A) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection such sums as are necessary for each of fiscal years 2000 through 2003.

[(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A)—

[(i) shall not be available in advance of an annual appropriation; and

[(ii) shall remain available until expended.]

* * * * *

§ 326. State assumption of responsibility for categorical exclusions

(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

(1) * * *

(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary [and only for types of activities specifically designated by the Secretary] and for any type of activity for which a categorical exclusion classification is appropriate.

* * * * *

(4) PRESERVATION OF FLEXIBILITY.—The Secretary shall not require a State, as a condition of assuming responsibility under this section, to forego project delivery methods that are otherwise permissible for highway projects.

* * * * *

§ 327. Surface transportation project delivery [pilot] program

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery [pilot] program (referred to in this section as the “program”).

(2) ASSUMPTION OF RESPONSIBILITY.—

(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to one or more [highway] projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

(i) * * *

[(ii) the Secretary may not assign—

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[(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

[(II) any responsibility imposed on the Secretary by section 134 or 135.]

(ii) the Secretary may not assign any responsibility imposed on the Secretary by section 5203 or 5204 of title 49.

* * * * *

(F) PRESERVATION OF FLEXIBILITY.—The Secretary may not require a State, as a condition of participation in the program, to forego project delivery methods that are otherwise permissible for projects.

(b) STATE PARTICIPATION.—

[(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the States of Alaska, California, Ohio, Oklahoma, and Texas) to participate in the program.]

(1) PARTICIPATING STATES.—All States are eligible to participate in the program.

(2) APPLICATION.—Not later than 270 days after the date of enactment of [this section, the Secretary shall promulgate] amendments to this section by the American Energy and Infrastructure Jobs Act of 2012, the Secretary shall amend, as appropriate, regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

(A) * * *

* * * * *

(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

(1) * * *

* * * * *

(3) provide that the State—

(A) * * *

* * * * *

(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed[.];
(4) have a term of not more than 5 years; and
(5) be renewable.

* * * * *

(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in [subsection (i)] subsection (j).

* * * * *

(g) AUDITS.—

(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which re-

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sponsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

(A) * * *

(B) annual audits during each [subsequent year] of the third and fourth years of State participation.

* * * * *

(h) *MONITORING.*—After the fourth year of the participation of a State in the program, the Secretary shall monitor compliance by the State with the written agreement, including the provision by the State of financial resources to carry out the written agreement.

[(h)] (i) *REPORT TO CONGRESS.*—The Secretary shall submit to Congress an annual report that describes the administration of the program.

[(i) *TERMINATION.*—

[(1) *IN GENERAL.*—Except as provided in paragraph (2), the program shall terminate on the date that is 7 years after the date of enactment of this section.

[(2) *TERMINATION BY SECRETARY.*—The Secretary may terminate the participation of any State in the program if—

[(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

[(B) the Secretary provides to the State—

[(i) notification of the determination of noncompliance; and

[(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

[(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.]

(j) *TERMINATION.*—The Secretary may terminate the participation of any State in the program if—

(1) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

(2) the Secretary provides to the State—

(A) notification of the determination of noncompliance; and

(B) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

(3) the State, after the notification and period provided under paragraph (2), fails to take satisfactory corrective action, as determined by the Secretary.

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

(1) *MULTIMODAL PROJECT.*—The term “multimodal project” means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.

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(2) **PROJECT.**—The term “project” means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

* * * * *

§ 330. Funding flexibility for transportation emergencies

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the chief executive of a State, after declaring an emergency with respect to a transportation facility under subsection (b), may use any covered funds of the State to repair or replace the transportation facility.

(b) **DECLARATION OF EMERGENCY.**—To declare an emergency with respect to a transportation facility for purposes of subsection (a), the chief executive of a State shall provide to the Secretary written notice of the declaration, which shall specify—

- (1) the emergency;
- (2) the affected transportation facility; and
- (3) the repair or replacement activities to be carried out.

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

(1) **COVERED FUNDS.**—The term “covered funds” means any amounts apportioned to a State under this title, including any such amounts required to be set aside for a purpose other than the repair or replacement of a transportation facility under this section.

(2) **EMERGENCY.**—The term “emergency” means any unexpected event or condition that—

- (A) may cause, or has caused, the catastrophic failure of a transportation facility; and
- (B) is determined to be an emergency by the chief executive of a State.

(3) **TRANSPORTATION FACILITY.**—The term “transportation facility” means any component of the National Highway System.

(d) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this section may be construed to allow a State to change the division of surface transportation program funding under section 133(d)(3).

§ 331. Program for eliminating duplication of environmental reviews

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Secretary shall establish a program to eliminate duplicative environmental reviews and approvals under State and Federal law of projects. Under this program, a State may use State laws and procedures to conduct reviews and make approvals in lieu of Federal environmental laws and regulations, consistent with the provisions of this section.

(2) **PARTICIPATING STATES.**—All States are eligible to participate in the program.

(3) **SCOPE OF ALTERNATIVE REVIEW AND APPROVAL PROCEDURES.**—For purposes of this section, alternative environmental review and approval procedures may include one or more of the following:

(A) Substitution of one or more State environmental laws for one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State environmental laws provide environmental protection and opportunities for public involvement that are substantially equivalent to the applicable Federal environmental laws.

(B) Substitution of one or more State regulations for Federal regulations implementing one or more Federal environmental laws, if the Secretary determines in accordance with this section that the State regulations provide environmental protection and opportunities for public involvement that are substantially equivalent to the Federal regulations.

(b) APPLICATION.—To participate in the program, a State shall submit to the Secretary an application containing such information as the Secretary may require, including—

(1) a full and complete description of the proposed alternative environmental review and approval procedures of the State;

(2) for each State law or regulation included in the proposed alternative environmental review and approval procedures of the State, an explanation of the basis for concluding that the law or regulation meets the requirements under subsection (a)(3); and

(3) evidence of having sought, received, and addressed comments on the proposed application from the public and appropriate Federal environmental resource agencies.

(c) REVIEW OF APPLICATION.—The Secretary shall—

(1) review an application submitted under subsection (b);

(2) approve or disapprove the application in accordance with subsection (d) not later than 90 days after the date of the receipt of the application; and

(3) transmit to the State notice of the approval or disapproval, together with a statement of the reasons for the approval or disapproval.

(d) APPROVAL OF STATE PROGRAMS.—

(1) IN GENERAL.—The Secretary shall approve each such application if the Secretary finds that the proposed alternative environmental review and approval procedures of the State are substantially equivalent to the applicable Federal environmental laws and Federal regulations.

(2) EXCLUSION.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall not apply to any decision by the Secretary to approve or disapprove any application submitted pursuant to this section.

(e) COMPLIANCE WITH PERMITS.—Compliance with a permit or other approval of a project issued pursuant to a program approved by the Secretary under this section shall be deemed compliance with the Federal laws and regulations identified in the program approved by the Secretary pursuant to this section.

(f) REVIEW AND TERMINATION.—

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(1) **REVIEW.**—All State alternative environmental review and approval procedures approved under this section shall be reviewed by the Secretary not less than once every 5 years.

(2) **PUBLIC NOTICE AND COMMENT.**—In conducting the review process under paragraph (1), the Secretary shall provide notice and an opportunity for public comment.

(3) **EXTENSIONS AND TERMINATIONS.**—At the conclusion of the review process, the Secretary may extend the State alternative environmental review and approval procedures for an additional 5-year period or terminate the State program.

(g) **REPORT TO CONGRESS.**—Not later than 2 years after the date of enactment of this section and annually thereafter, the Secretary shall submit to Congress a report that describes the administration of the program.

(h) **DEFINITIONS.**—For purposes of this section:

(1) **ENVIRONMENTAL LAW.**—The term “environmental law” includes any law that provides procedural or substantive protection, as applicable, for the natural or built environment with regard to the construction and operation of projects.

(2) **FEDERAL ENVIRONMENTAL LAWS.**—The term “Federal environmental laws” means laws governing the review of environmental impacts of, and issuance of permits and other approvals for, the construction and operation of projects, including section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), section 106 of the National Historic Preservation Act (16 U.S.C. 470f), and sections 7(a)(2), 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B), 1539(a)(1)(B)).

(3) **MULTIMODAL PROJECT.**—The term “multimodal project” means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.

(4) **PROJECT.**—The term “project” means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.

§ 332. State performance of legal sufficiency reviews

(a) **IN GENERAL.**—At the request of any State transportation department, the Federal Highway Administration shall enter into an agreement with the State transportation department to authorize the State to carry out the legal sufficiency reviews for environmental impact statements and environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with this section.

(b) **TERMS OF AGREEMENT.**—An agreement authorizing a State to carry out legal sufficiency reviews for Federal-aid highway projects shall contain the following provisions:

(1) A finding by the Federal Highway Administration that the State has the capacity to carry out legal sufficiency reviews that are equivalent in quality and consistency to the reviews that would otherwise be conducted by attorneys employed by such Administration.

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(2) An oversight process, including periodic reviews conducted by attorneys employed by such Administration, to evaluate the quality of the legal sufficiency reviews carried out by the State transportation department under the agreement.

(3) A requirement for the State transportation department to submit a written finding of legal sufficiency to the Federal Highway Administration concurrently with the request by the State for Federal approval of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) document.

(4) An opportunity for the Federal Highway Administration to conduct an additional legal sufficiency review for any project, for not more than 30 days, if considered necessary by the Federal Highway Administration.

(5) Procedures allowing either party to the agreement to terminate the agreement for any reason with 30 days notice to the other party.

(c) EFFECT OF AGREEMENT.—A legal sufficiency review carried out by a State transportation department under this section shall be deemed by the Federal Highway Administration to satisfy the requirement for a legal sufficiency review in sections 771.125(b) and 774.7(d) of title 23, Code of Federal Regulations, or other applicable regulations issued by the Federal Highway Administration.

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CHAPTER 4—HIGHWAY SAFETY

Sec.	
401.	Authority of the Secretary.
	* * * * *
[403.	Highway safety research and development.]
403.	Use of certain funds made available for administrative expenses.
	* * * * *
[405.	Occupant protection incentive grants.
[406.	Safety belt performance grants.
[407.	Innovative project grants.
[408.	State traffic safety information system improvements.]
	* * * * *
[410.	Alcohol-impaired driving countermeasures.
[411.	State highway safety data improvements.]
	* * * * *

§ 402. Highway safety programs

[(a) Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom. Such programs shall be in accordance with uniform guidelines promulgated by the Secretary. Such uniform guidelines shall be expressed in terms of performance criteria. In addition, such uniform guidelines shall include programs (1) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits, (2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles, (3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance, (4) to prevent accidents and reduce deaths and

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injuries resulting from accidents involving motor vehicles and motorcycles, (5) to reduce injuries and deaths resulting from accidents involving school buses, and (6) 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) (7) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures. The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require. The purposes of the program are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs. The program shall provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts. The Secretary shall establish minimum reporting criteria for the program. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, aggressive driving, fatigued driving, distracted driving, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents. Such uniform guidelines shall be promulgated by the Secretary so as to improve driver performance (including, but not limited to, driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition such uniform guidelines shall include, but not be limited to, provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, enforcement of light transmission standards of window glazing for passenger motor vehicles and light trucks as necessary to improve highway safety, and emergency services. Such guidelines as are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.]

(a) *STATE HIGHWAY SAFETY PROGRAMS.*—

(1) *IN GENERAL.*—Each State shall have a highway safety program that is subject to approval by the Secretary and is designed to reduce traffic crashes and the fatalities, injuries, and property damage resulting therefrom.

(2) *UNIFORM GUIDELINES.*—A State's highway safety program under paragraph (1) shall be established and carried out in accordance with uniform guidelines promulgated by the Sec-

retary, which shall be expressed in terms of performance criteria and shall include programs—

(A) to reduce injuries and fatalities resulting from motor vehicles being driven in excess of posted speed limits;

(B) to encourage the proper use of occupant protection devices (including the use of seat belts and child restraints) by occupants of motor vehicles;

(C) to reduce fatalities and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

(D) to prevent crashes and reduce fatalities and injuries resulting from crashes involving motor vehicles and motorcycles;

(E) to reduce crashes resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles);

(F) to improve law enforcement activities relating to motor vehicle crash prevention, traffic supervision, and postcrash procedures;

(G) to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the safety data of States that is needed—

(i) for activities relating to performance targets established under subsection (m);

(ii) to identify priorities for national, State, and local highway and traffic safety programs; and

(iii) to improve the compatibility and interoperability of the data systems of each State with national data systems and the data systems of other States;

(H) to improve driver performance, including through driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental), and driver licensing; and

(I) to improve pedestrian and bicycle safety.

(3) **RECORD SYSTEM.**—The uniform guidelines promulgated under paragraph (2) shall include provisions for an effective record system of—

(A) traffic crashes, including injuries and fatalities resulting therefrom;

(B) crash investigation activities carried out to determine the probable causes of crashes, injuries, and fatalities;

(C) vehicle registration, operation, and inspection activities;

(D) highway design and maintenance activities, including lighting, markings, and surface treatment activities;

(E) traffic surveillance activities relating to the detection and correction of locations with a significant potential for crashes; and

(F) emergency services.

(4) **APPLICABILITY OF GUIDELINES.**—The uniform guidelines applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to feder-

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ally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

(b) ADMINISTRATION OF STATE PROGRAMS.—

(1) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not approve a State highway safety program under this section which does not—

(A) * * *

* * * * *

(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State; [and]

(E) provide satisfactory assurances that the State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within a State as identified by the State highway safety planning process, including—

(i) [national law enforcement mobilizations] *any national traffic safety law enforcement mobilizations coordinated by the Secretary;*

* * * * *

(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources[.];

(F) *demonstrate that the State has established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems;*

(G) *demonstrate that the State has developed a multiyear highway safety data and traffic records system strategic plan that—*

(i) *addresses existing deficiencies in the State's highway safety data and traffic records system;*

(ii) *is approved by the State's highway safety data and traffic records coordinating committee;*

(iii) *specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;*

(iv) *prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies of the State, the highway safety data and traffic records system needs and goals of the State;*

(v) *identifies performance-based measures by which progress toward those goals will be determined; and*

(vi) *specifies how funds apportioned to the State under subsection (c) and any other funds of the State are to be used to address needs and goals identified in the multiyear plan; and*

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(H) demonstrate that an assessment or audit of the State's highway safety data and traffic records system was conducted or updated during the 5-year period ending on the date on which such State highway safety program is submitted to the Secretary for approval.

* * * * *

[(3) USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—
The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers.]

[(c) Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom. Such funds shall be apportioned 75 per centum in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. For the purposes of this subsection, a "public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than three-quarters of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior shall not be less than 2 percent of the total apportionment and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 per centum of the total apportionment. The Secretary shall not apportion any funds under this subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section. For the purpose of the seventh sentence of this subsection, a highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section requiring any motorcycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State. Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 per centum of the amounts that would otherwise be appor-

tioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if he approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end 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 this subsection not later than 30 days after such determination.]

(c) *APPORTIONMENT OF FUNDS.*—

(1) *IN GENERAL.*—Funds made available to carry out this section shall be used to aid States in conducting the highway safety programs approved under subsection (a).

(2) *APPORTIONMENT FORMULA.*—Funds described in paragraph (1) shall be apportioned among the States each fiscal year in the following manner:

(A) 62.5 percent in the ratio that the population of each State bears to the total population of all States, as shown by the latest available Federal census.

(B) 20 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States.

(C) 10 percent only to States that have enacted and are enforcing a primary safety belt use law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

(D) 5 percent only to States that have enacted and are enforcing an ignition interlock law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

(E) 2.5 percent only to States that have enacted and are enforcing a graduated drivers licensing law, in the ratio that the population of each such State bears to the total population of all such States, as shown by the latest available Federal census.

(3) *MINIMUM APPORTIONMENT.*—The annual apportionment under paragraph (2) to each State shall not be less than three-quarters of 1 percent of the total apportionment under that paragraph in the applicable fiscal year, except that the apportionment to the Secretary of the Interior shall not be less than 1.5 percent of the total apportionment and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

(4) *IMPLEMENTATION OF APPROVED HIGHWAY SAFETY PROGRAMS.*—

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(A) *REQUIREMENT FOR RECEIVING APPORTIONMENTS.*—The Secretary shall not apportion any funds under this section to any State that is not implementing a highway safety program approved by the Secretary under this section.

(B) *LIMITATIONS ON REQUIREMENTS RELATING TO MOTORCYCLE SAFETY HELMETS.*—A highway safety program approved by the Secretary shall not include any requirement that a State implement such program by adopting or enforcing any law, rule, or regulation based on a guideline promulgated by the Secretary under this section that requires any motorcycle operator 18 years of age or older or passenger 18 years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State.

(C) *COMPLIANCE WITH IMPLEMENTATION REQUIREMENTS.*—Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline promulgated under this section, or with every element of every uniform guideline, in every State.

(D) *MINIMUM REQUIREMENTS FOR IMPAIRED DRIVING HIGH RANGE STATES.*—An impaired driving high range State shall expend in a fiscal year, on projects and activities addressing impaired driving, at least 30 percent of the funds apportioned to that State under paragraph (2) for that fiscal year.

(E) *AUTOMATED TRAFFIC ENFORCEMENT SYSTEMS.*—

(i) *PROHIBITION.*—A State may not expend funds apportioned to that State under paragraph (2) to carry out any program to purchase, operate, or maintain an automated traffic enforcement system.

(ii) *AUTOMATED TRAFFIC ENFORCEMENT SYSTEM DEFINED.*—In this subparagraph, the term “automated traffic enforcement system” means automated technology that monitors compliance with traffic laws.

[(d) All provisions] (d) *APPLICABILITY OF CERTAIN PROVISIONS.*—All provisions of chapter 1 of this title that are applicable to National Highway System highway funds other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section, and except that the aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such

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program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary. In applying such provisions of chapter 1 in carrying out this section the term "State transportation department" as used in such provisions shall mean the Governor of a State for the purposes of this section.

[(e) Uniform guidelines] (e) COOPERATION.—Uniform guidelines promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

[(f) The Secretary] (f) DEPARTMENT AND AGENCY PARTICIPATION.—The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by subsection (a) and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

[(g) Nothing in] (g) LIMITATION ON FUNDS.—Nothing in this section authorizes the appropriation or expenditure of funds [for (1) highway construction] for highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into [guidelines] or (2) any purpose for which funds are authorized by section 403 of this title] guidelines) or for any purpose for which funds are authorized under section 403(a).

* * * * *

[(k)(1) Subject to the provisions of this subsection, the Secretary shall make a grant to any State which includes, as part of its highway safety program under section 402 of this title, the use of a comprehensive computerized safety recordkeeping system designed to correlate data regarding traffic accidents, drivers, motor vehicles, and roadways. Any such grant may only be used by such State to establish and maintain a comprehensive computerized traffic safety recordkeeping system or to obtain and operate components to support highway safety priority programs identified by the Secretary under this section. Notwithstanding any other provision of law, if a report, list, schedule, or survey is prepared by or for a State or political subdivision thereof under this subsection, such report, list, schedule, or survey shall not be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report, list, schedule, or survey.

[(2) No State may receive a grant under this subsection in more than two fiscal years.

[(3) The amount of the grant to any State under this subsection for the first fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1985 under this section. The amount of a grant to any State under this subsection for the second fiscal year such State is eligible for a grant under this subsection shall equal 10 per centum of the amount apportioned to such State for fiscal year 1986 under this section.

[(4) A State is eligible for a grant under this subsection if—
[(A) it certifies to the Secretary that it has in operation a computerized traffic safety recordkeeping system and identifies

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proposed means of upgrading the system acceptable to the Secretary; or

[(B) it provides to the Secretary a plan acceptable to the Secretary for establishing and maintaining a computerized traffic safety recordkeeping system.

[(5) The Secretary, after making the deduction authorized by the second sentence of subsection (c) of this section for fiscal years 1985 and 1986, shall set aside 10 per centum of the remaining funds authorized to be appropriated to carry out this section for the purpose of making grants under this subsection. Funds set aside under this subsection shall remain available for the fiscal year authorized and for the succeeding fiscal year and any amounts remaining unexpended at the end of such period shall be apportioned in accordance with the provisions of subsection (c) of this section.]

[(1) (k) LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—A State shall actively encourage all relevant law enforcement agencies in such State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of this subsection or as revised and in effect after such date as determined by the Secretary.

[(m) (l) CONSOLIDATION OF GRANT APPLICATIONS.—The Secretary shall establish an approval process by which a State may apply for all grants under this chapter for which a single application process with one annual deadline is appropriate. The Bureau of Indian Affairs shall establish a similar simplified process for applications for grants from Indian tribes under this chapter.

(m) ESTABLISHMENT OF PERFORMANCE TARGETS.—

(1) IN GENERAL.—The Governor of each State shall establish quantifiable performance targets for their State—

(A) to be incorporated into the highway safety plan of the State under subsection (n) each year; and

(B) with respect to, at a minimum—

(i) the average number of fatalities in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled;

(ii) the average number of serious injuries in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled;

(iii) the average number of traffic fatalities in the State involving drivers or motorcycle operators with a blood alcohol content of .08 or above per 100,000,000 vehicle miles traveled;

(iv) the average number of traffic crashes in the State involving drivers or motorcycle operators with a blood alcohol content of .08 or above per 100,000,000 vehicle miles traveled;

(v) the average number of unrestrained motor vehicle occupant fatalities, for all seat positions, in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled; and

(vi) the average number of motorcyclist fatalities in the State resulting from traffic crashes per 100,000,000 vehicle miles traveled.

(2) *CONSIDERATIONS IN ESTABLISHING PERFORMANCE TARGETS.*—In establishing performance targets for a State under this subsection, a Governor shall consider, at a minimum—

(A) the number of fatalities in the State resulting from traffic crashes during the preceding 3 years;

(B) the number of serious injuries in the State resulting from traffic crashes during the preceding 3 years;

(C) the extent to which vehicle miles traveled in the State may impact the number of fatalities and serious injuries in the State resulting from traffic crashes; and

(D) data available from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration.

(n) *HIGHWAY SAFETY PLAN AND REPORTING REQUIREMENTS.*—

(1) *IN GENERAL.*—With respect to fiscal year 2014, and each fiscal year thereafter, the Secretary shall require the Governor of each State, as a condition of the approval of the State's highway safety program for that fiscal year, to develop and submit to the Secretary for approval a highway safety plan applicable to that fiscal year in accordance with this subsection. The plan required under this paragraph may be incorporated into any other document required to be submitted under this section.

(2) *TIMING.*—Each Governor shall submit to the Secretary the highway safety plan of their State not later than September 1 of the fiscal year preceding the fiscal year to which the plan applies.

(3) *CONTENTS.*—A State's highway safety plan shall include, at a minimum—

(A) current data with respect to each performance target established for the State under subsection (m);

(B) for the fiscal year preceding the fiscal year to which the plan applies, a description of the State's performance regarding each performance target category described in subsection (m)(1)(B);

(C) for the fiscal year preceding the fiscal year to which the plan applies, a description of the projects and activities for which the State obligated funding apportioned to the State under this section;

(D) for the fiscal year to which the plan applies, the State's strategy for using funds apportioned to the State under this section for projects and activities that will allow the State to meet the performance targets established for the State under subsection (m);

(E) data and data analysis supporting the effectiveness of projects and activities proposed in the strategy under subparagraph (D);

(F) 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 State's strategy under subparagraph (D); and

(G) a certification that the State will maintain its aggregate expenditures for highway safety activities, from sources other than funds apportioned to the State under this section, at or above the average level of such expendi-

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tures in the 2 fiscal years preceding the date of enactment of this subsection.

(4) REVIEW OF HIGHWAY SAFETY PLANS.—

(A) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a State's highway safety plan, the Secretary shall approve or disapprove the plan.

(B) APPROVALS AND DISAPPROVALS.—The Secretary shall approve or disapprove a State's highway safety plan based on a review of the plan, including an evaluation of whether, in the Secretary's judgment, the plan is evidence-based, is supported by data and analysis, and, if implemented, will allow the State to meet the performance targets established for the State under subsection (m). The Secretary shall disapprove a State's highway safety plan if the plan does not, in the Secretary's judgment, provide for the evidenced-based use of funding in a manner sufficient to allow the State to meet performance targets.

(C) ACTIONS UPON DISAPPROVAL.—If the Secretary disapproves a State's highway safety plan, the Secretary shall inform the Governor of the State of the reasons for the disapproval and require the Governor to resubmit the plan with such modifications as the Secretary determines necessary.

(D) REVIEW OF RESUBMITTED PLANS.—If the Secretary requires a Governor to resubmit a highway safety plan with modifications, the Secretary shall approve or disapprove the modified plan not later than 30 days after the date on which the modified plan is submitted to the Secretary.

(E) FUNDING ALLOCATIONS.—If a State failed to accomplish, as determined by the Secretary, a performance target established for that State under subsection (m) in the fiscal year preceding the fiscal year to which a State highway safety plan under review applies, the Secretary shall require the following to be included in the highway safety plan under review:

(i) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(iii) or (m)(1)(B)(iv), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing impaired driving in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

(ii) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(v), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing occupant protection in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

(iii) If the State failed to accomplish a performance target established under subsection (m)(1)(B)(vi), a certification that the State will expend funds apportioned to the State under this section, during the fiscal year to which the plan applies, for projects and activities addressing motorcycle safety in an amount that is at least 5 percent more than the amount expended on such projects and activities in the preceding fiscal year using such funds.

(F) DATA.—

(i) FATALITIES DATA.—A State's compliance with performance targets relating to fatalities shall be determined using the most recent data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration.

(ii) CRASH DATA.—A State's compliance with performance targets relating to serious injuries shall be determined using State crash data files.

(G) PUBLIC NOTICE.—A State shall make each highway safety plan of the State available to the public.

(o) ANNUAL REPORT TO CONGRESS.—Not later than October 1, 2015, and annually thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) an evaluation of each State's performance with respect to the State's highway safety plan under subsection (n) and performance targets under subsection (m); and

(2) such recommendations as the Secretary may have for improvements to activities carried out under subsections (m) and (n).

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

(1) CHILD RESTRAINT.—The term "child restraint" means any product designed to provide restraint to a child in a motor vehicle (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

(2) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(3) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms "driving while intoxicated" and "driving under the influence" have the meaning given those terms in section 164.

(4) GRADUATED DRIVERS LICENSING LAW.—The term "graduated drivers licensing law" means a law enacted by a State that requires, before the granting of an unrestricted driver's license to individuals under the age of 21 years, a 2-stage licensing process that includes the following:

(A) A learner's permit stage that—

(i) allows for the acquisition of a learner's permit by an individual not earlier than the date on which that individual attains 15 years and 6 months of age;

(ii) is at least 6 months in duration;

(iii) requires an individual with a learner's permit to complete at least 30 hours of driving supervised by a licensed driver who is 21 years of age or older;

(iv) requires an individual with a learner's permit to be accompanied and supervised by a licensed driver who is 21 years of age or older at all times when operating a motor vehicle; and

(v) is in effect until the commencement of the intermediate stage or until the date on which the applicable individual attains 18 years of age.

(B) An intermediate stage that—

(i) applies to an individual immediately after the expiration of the learner's permit stage for that individual;

(ii) is at least 6 months in duration;

(iii) prohibits the operation of a motor vehicle by an individual to whom the stage applies, if that individual is transporting more than one nonfamilial passenger under the age of 18 years and there is no licensed driver 21 years of age or older present in the motor vehicle; and

(iv) prohibits an individual to whom the stage applies from operating a motor vehicle between the hours of midnight and 4 a.m., unless such individual is accompanied and supervised by a licensed driver who is 21 years of age or older.

(5) **IMPAIRED DRIVING HIGH RANGE STATE.**—The term “impaired driving high range State” means a State that averaged more than .50 alcohol impaired driving fatalities per 100,000,000 vehicle miles traveled, as determined using data from the Fatality Analysis Reporting System of the National Highway Traffic Safety Administration, for the most recent 3 years for which data are available.

(6) **IGNITION INTERLOCK DEVICE.**—The term “ignition interlock device” means an in-vehicle device that requires a driver to provide a breath sample prior to a motor vehicle starting and that prevents a motor vehicle from starting if the blood alcohol content of the driver is above the legal limit.

(7) **IGNITION INTERLOCK LAW.**—The term “ignition interlock law” means a law enacted by a State that requires throughout the State the installation of an ignition interlock device, for a minimum of 6 months, on each motor vehicle operated by an individual who is convicted of driving while intoxicated or driving under the influence.

(8) **MOTOR VEHICLE.**—The term “motor vehicle” has the meaning given that term in section 157.

(9) **MOTORCYCLIST SAFETY TRAINING.**—The term “motorcyclist safety training” means a formal program of instruction that is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which

may include a State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

(10) **PRIMARY SAFETY BELT USE LAW.**—The term “primary safety belt use law” means a law enacted by a State that—

(A) requires all occupants in the front seat of a motor vehicle to utilize a seat belt when the motor vehicle is being driven; and

(B) allows for a law enforcement officer to stop a vehicle solely for the purpose of issuing a citation for a violation of the requirement in subparagraph (A) in the absence of evidence of another offense.

(11) **PROJECTS AND ACTIVITIES ADDRESSING IMPAIRED DRIVING.**—The term “projects and activities addressing impaired driving” means projects and activities—

(A) to develop and implement law enforcement measures and tools designed to reduce impaired driving, including training, education, equipment, and other methods of support for law enforcement and criminal justice professionals;

(B) to improve impaired driving prosecution and adjudication, including the establishment of courts that specialize in impaired driving cases;

(C) to carry out safety campaigns relating to impaired driving using paid media;

(D) to provide inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment;

(E) to establish and improve information systems containing data on impaired driving; or

(F) to establish and implement an ignition interlock system for individuals convicted of driving while intoxicated or driving under the influence.

(12) **PROJECTS AND ACTIVITIES ADDRESSING MOTORCYCLE SAFETY.**—The term “projects and activities addressing motorcycle safety” means projects and activities—

(A) to improve the content and delivery of motorcyclist safety training curricula;

(B) to support licensing, training, and safety education for motorcyclists, including new entrants;

(C) to enhance motorcycle safety through public service announcements, including safety messages on road sharing, outreach, and public awareness activities; or

(D) to provide for the safety of motorcyclists through the promotion of appropriate protective equipment.

(13) **PROJECTS AND ACTIVITIES ADDRESSING OCCUPANT PROTECTION.**—The term “projects and activities addressing occupant protection” means projects and activities—

(A) to provide for occupant protection training, education, equipment, and other methods of support for law enforcement and criminal justice professionals;

(B) to carry out safety campaigns relating to occupant protection using paid media;

(C) to establish and improve information systems containing data on occupant protection;

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(D) to provide for training of firefighters, law enforcement officers, emergency medical services professionals, and others on the provision of community child passenger safety services; or

(E) to purchase child restraints for low-income families.

(14) **PUBLIC ROAD.**—The term “public road” means any road under the jurisdiction of and maintained by a public authority and open to public travel.

(15) **PUBLIC ROAD MILEAGE.**—The term “public road mileage” means the number of public road miles in a State as—

(A) determined at the end of the calendar year preceding the year in which applicable funds are apportioned; and

(B) certified by the Governor of the State, subject to approval by the Secretary.

(16) **SEAT BELT.**—The term “seat belt” has the meaning given that term in section 157.

[§ 403. Highway safety research and development

[(a) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to use funds appropriated to carry out this section to—

[(1) conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;

[(2) conduct ongoing research into driver behavior and its effect on traffic safety;

[(3) conduct research on, launch initiatives to counter, and conduct demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;

[(4) conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

[(5) conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives;

[(6) conduct research on, evaluate, and develop best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration and delivery mechanisms) and make recommendations for harmonizing driver education and multi-stage graduated licensing systems;

[(7) conduct research, training, and education programs related to older drivers;

[(8) conduct demonstration projects; and

[(9) conduct research, training, and programs relating to motorcycle safety, including impaired driving.

[(b) DRUGS AND DRIVER BEHAVIOR.—In addition to the research authorized by subsection (a), the Secretary, in consultation with other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

[(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles.

[(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver crash involvement to highway safety.

[(3) Measures that may deter drugged driving.

[(4) Programs to train law enforcement officers on motor vehicle pursuits conducted by the officers.

[(5) Technology to detect drug use and enable States to efficiently process toxicology evidence.

[(6) Research on the effects of illicit drugs and the compound effects of alcohol and illicit drugs on impairment.

[(c) The research authorized by subsections (a) and (b) of this section may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

[(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section.

[(e) In addition to the research authorized by subsection (a) of this section, the Secretary shall, either independently or in cooperation with other Federal departments or agencies, conduct research into, and make grants to or contracts with State or local agencies, institutions, and individuals for projects to demonstrate the administrative adjudication of traffic infractions. Such administrative adjudication demonstration projects shall be designed to improve highway safety by developing fair, efficient, and effective processes and procedures for traffic infraction adjudication, utilizing appropriate punishment, training, and rehabilitative measures for traffic offenders. The Secretary shall report to Congress by July 1, 1975, and each year thereafter during the continuance of the program, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions.

[(f) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

[(1) IN GENERAL.—For the purpose of encouraging innovative solutions to highway safety problems, stimulating voluntary improvements in highway safety, and stimulating the marketing of new highway safety-related technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, colleges, and universities and corporations, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State or the United States. This collaborative research may include crash data collection and analysis; driver and pedestrian behavior; and demonstrations of technology.

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[(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in entering into such agreements, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this subsection.]

[(3) PROJECT SELECTION.—In selecting projects to be conducted under this subsection, the Secretary shall establish a procedure to consider the views of experts and the public concerning the project areas.]

[(4) APPLICABILITY OF STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.—The research, development, or utilization of any technology pursuant to an agreement under the provisions of 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.]

[(g) INTERNATIONAL COOPERATION.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.]

§ 403. Use of certain funds made available for administrative expenses

(a) **HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**—The Secretary is authorized to carry out, using funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012—

(1) ongoing research into driver behavior and its effect on traffic safety;

(2) research on, initiatives to counter, and demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors determined relevant by the Secretary have on driving;

(3) training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;

(4) research on and evaluations of the effectiveness of traffic safety countermeasures, including seat belts and impaired driving initiatives;

(5) research on, evaluations of, and identification of best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration, and delivery mechanisms) and make recommendations for harmonizing driver education and multi-stage graduated licensing systems;

(6) research, training, and education programs related to older drivers;

(7) highway safety demonstration projects related to driver behavior, including field operational tests for vehicle collision avoidance systems, vehicle voice interface systems, vehicle workload management systems, driver state monitoring systems, and autonomous vehicles; and

(8) research, training, and programs relating to motorcycle safety, including impaired driving.

(b) HIGH VISIBILITY ENFORCEMENT PROGRAM.—

(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer, using funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure Jobs Act of 2012, a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purpose specified in paragraph (2) in each of fiscal years 2013 through 2016.

(2) PURPOSE.—The purpose of each law enforcement campaign under this subsection shall be to achieve one or more of the following objectives:

(A) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

(B) Increase the use of seat belts by occupants of motor vehicles.

(C) Reduce distracted driving of motor vehicles.

(3) ADVERTISING.—The Administrator may use, or authorize the use of, funds made available to carry out this subsection to pay for the development, production, and use of broadcast and print media advertising in carrying out law enforcement campaigns under this subsection. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen to, read, or watch nontraditional media.

(4) COORDINATION WITH STATES.—The Administrator shall coordinate with States in carrying out law enforcement campaigns under this subsection, including advertising funded under paragraph (3), with a view toward—

(A) relying on States to provide the law enforcement resources for the campaigns out of funding available under this subsection and section 402; and

(B) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.

(5) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of campaigns carried out under this subsection.

(6) STATE DEFINED.—In this subsection, the term “State” has the meaning given that term in section 401.

(c) AVAILABILITY OF FUNDS.—The Secretary shall ensure that at least \$137,244,000 of the funds made available out of the Highway Trust Fund (other than the Alternative Transportation Account) under section 5002(a)(3) of the American Energy and Infrastructure

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Jobs Act of 2012 each fiscal year are used for programs and activities authorized under this section.

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[§ 405. Occupant protection incentive grants

[(a) GENERAL AUTHORITY.—

[(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants under this section to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. Such grants may be used by recipient States only to implement and enforce, as appropriate, such programs.

[(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for programs described in paragraph (1) at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the SAFETEA-LU.

[(3) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 9 fiscal years beginning after September 30, 2003.

[(4) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

[(A) in each of the first and second fiscal years beginning after September 30, 2003, in which the State receives a grant under this section, 75 percent;

[(B) in each of the third and fourth fiscal years beginning after September 30, 2003, in which the State receives a grant under this section, 50 percent; and

[(C) in each of the fifth through ninth fiscal years beginning after September 30, 2003, in which the State receives a grant under this section, 25 percent.

[(b) GRANT ELIGIBILITY.—A State shall become eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary at least 4 of the following:

[(1) SAFETY BELT USE LAW.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle (and, beginning in fiscal year 2001, in any seat in the vehicle) does not have a safety belt properly secured about the individual's body.

[(2) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of the safety belt use law of the State.

[(3) MINIMUM FINE OR PENALTY POINTS.—The State imposes a minimum fine or provides for the imposition of penalty points against the driver's license of an individual—

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[(A) for a violation of the safety belt use law of the State; and

[(B) for a violation of the child passenger protection law of the State.

[(4) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State has implemented a statewide special traffic enforcement program for occupant protection that emphasizes publicity for the program.

[(5) CHILD PASSENGER PROTECTION EDUCATION PROGRAM.—The State has implemented a statewide comprehensive child passenger protection education program that includes education programs about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems.

[(6) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

[(c) GRANT AMOUNTS.—The amount of a grant for which a State qualifies under this section for a fiscal year shall equal up to 100 percent of the amount apportioned to the State for fiscal year 2003 under section 402.

[(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

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

[(1) CHILD SAFETY SEAT.—The term “child safety seat” means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

[(2) MOTOR VEHICLE.—The term “motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

[(3) MULTIPURPOSE PASSENGER VEHICLE.—The term “multipurpose passenger vehicle” means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

[(4) PASSENGER CAR.—The term “passenger car” means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

[(5) PASSENGER MOTOR VEHICLE.—The term “passenger motor vehicle” means a passenger car or a multipurpose passenger motor vehicle.

[(6) SAFETY BELT.—The term “safety belt” means—

[(A) with respect to open-body passenger 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 passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

[\S 406. Safety belt performance grants

[(a) IN GENERAL.—The Secretary shall make grants to States in accordance with the provisions of this section to encourage the enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.

[(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—

[(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—

[(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or

[(B) in the case of a State that does not have such a primary safety belt use law, has after December 31, 2005, a State safety belt use rate of 85 percent or more for each of the 2 calendar years immediately preceding the fiscal year of a grant, as measured under criteria determined by the Secretary.

[(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) shall equal 475 percent of the amount apportioned to the State under section 402(c) for fiscal year 2003.

[(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (1)(A), a conforming primary safety belt use law enacted after June 30th of any year shall—

[(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but

[(B) be considered as if it were enacted after October 1 of the next Federal fiscal year.

[(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, the Secretary shall make grants under this subsection to States in the order in which—

[(A) the conforming primary safety belt use law came into effect; or

[(B) the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years (as measured under by criteria determined by the Secretary), whichever first occurs.

[(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's conforming primary safety belt use law remains in effect or its safety belt use rate is 85 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to the condition in paragraph (4)).

[(c) GRANTS FOR PRE-2003 LAWS.—

[(1) IN GENERAL.—To the extent that amounts made available for grants under this section for any of fiscal years 2006 through 2009 exceed the total amount of grants to be awarded under subsection (b) for the fiscal year, including amounts to

be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a conforming primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003.

[(2) AMOUNT; INSTALLMENTS.—The amount of a grant available to a State under this subsection shall be equal to 200 percent of the amount of funds apportioned to the State under section 402(c) for fiscal year 2003. The Secretary may award the grant in annual installments.

[(d) ALLOCATION OF UNALLOCATED FUNDS.—

[(1) ADDITIONAL GRANTS.—The Secretary shall make additional grants under this section of any amounts made available for grants under this section that, on July 1, 2009, have not been allocated to States under this section.

[(2) ALLOCATION.—The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing conforming primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).

[(e) USE OF GRANT FUNDS.—

[(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—

- [(A) intersection improvements;
- [(B) pavement and shoulder widening;
- [(C) installation of rumble strips and other warning devices;
- [(D) improving skid resistance;
- [(E) improvements for pedestrian or bicyclist safety;
- [(F) railway-highway crossing safety;
- [(G) traffic calming;
- [(H) the elimination of roadside obstacles;
- [(I) improving highway signage and pavement marking;
- [(J) installing priority control systems for emergency vehicles at signalized intersections;
- [(K) installing traffic control or warning devices at locations with high accident potential;
- [(L) safety-conscious planning; and
- [(M) improving crash data collection and analysis.

[(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least \$1,000,000 of amounts received by States under this section are obligated for safety activities under this chapter.

[(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.

[(f) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the

sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.

[(g) FEDERAL SHARE.—The Federal share payable for grants under this section shall be 100 percent.

[(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term “passenger motor vehicle” means—

[(1) a passenger car;

[(2) a pickup truck; and

[(3) a van, minivan, or sport utility vehicle with a gross vehicle weight rating of less than 10,000 pounds.

[(§ 407. Innovative project grants

[(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

[(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

[(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

[(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

[(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.

[(§ 408. State traffic safety information system improvements

[(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants to eligible States to support the development and implementation of effective programs by such States to—

[(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, 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; and

[(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

[(b) FIRST-YEAR GRANTS.—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—

[(1) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

[(2) developed a multiyear highway safety data and traffic records system strategic plan—

[(A) that addresses existing deficiencies in the State's highway safety data and traffic records system;

[(B) that is approved by the highway safety data and traffic records coordinating committee;

[(C) that specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

[(D) that prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies of the State, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);

[(E) that identifies performance-based measures by which progress toward those goals will be determined; and

[(F) that specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.

[(c) SUCCESSIVE YEAR GRANTS.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State—

[(1) certifies to the Secretary that an assessment or audit of the State's highway safety data and traffic records system has been conducted or updated within the preceding 5 years;

[(2) certifies to the Secretary that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

[(3) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;

[(4) demonstrates to the Secretary measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

[(5) submits to the Secretary a current report on the progress in implementing the multiyear plan.

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[(d) GRANT AMOUNT.—Subject to subsection (e)(3), the amount of a year grant made to a State for a fiscal year under this section shall equal the higher of—

[(1) the amount determined by multiplying—

[(A) the amount appropriated to carry out this section for such fiscal year, by

[(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or

[(2)(A) \$300,000 in the case of the first fiscal year a grant is made to a State under this section after the date of enactment of this subparagraph; or

[(B) \$500,000 in the case of a succeeding fiscal year a grant is made to the State under this section after such date of enactment.

[(e) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—

[(1) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.

[(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary, in consultation with the States and appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.

[(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the SAFETEA-LU.

[(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.

[(5) LIMITATION ON USE OF GRANT PROCEEDS.—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.

[(f) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this section.]

§ 409. Discovery and admission as evidence of certain reports and surveys

Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings, pursuant to sections 130, 144, [and 148] 148, and 402 of this title or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds 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 mentioned or addressed in such reports, surveys, schedules, lists, or data.

[§ 410. Alcohol-impaired driving countermeasures

[(a) GENERAL AUTHORITY.—

[(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol. Such grants may only be used by recipient States to implement and enforce such programs.

[(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under this subsection 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 other sources for alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the SAFETEA-LU.

[(3) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing in a fiscal year a program adopted by a State pursuant to paragraph (1) shall not exceed—

[(A) in each of the first and second fiscal years in which the State receives a grant under this section, 75 percent;

[(B) in each of the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

[(C) in each of the fifth through eleventh fiscal years in which the State receives a grant under this section, 25 percent.

[(b) ELIGIBILITY REQUIREMENTS.—To be eligible for a grant under subsection (a), a State shall—

[(1) have an alcohol related fatality rate of 0.5 or less per 100,000,000 vehicle miles traveled as of the date of the grant, as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; or

[(2)(A) for fiscal year 2006 by carrying out 3 of the programs and activities under subsection (c);

[(B) for fiscal year 2007 by carrying out 4 of the programs and activities under subsection (c); or

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[(C) for each of fiscal years 2008 through 2012 by carrying out 5 of the programs and activities under subsection (c).

[(c) STATE PROGRAMS AND ACTIVITIES.—The programs and activities referred to in subsection (b) are the following:

[(1) CHECK POINT, SATURATION PATROL PROGRAM.—A State program to conduct a series of high visibility, statewide law enforcement campaigns in which law enforcement personnel monitor for impaired driving, either through the use of sobriety check points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol—

[(A) if the State organizes the campaigns in cooperation with related periodic national campaigns organized by the National Highway Traffic Safety Administration, except that this subparagraph does not preclude a State from initiating sustained high visibility, Statewide law enforcement campaigns independently of the cooperative efforts; and

[(B) if, for each fiscal year, the State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities at high incident locations (or any other similar activity approved by the Secretary) initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year.

[(2) PROSECUTION AND ADJUDICATION OUTREACH PROGRAM.—A State prosecution and adjudication program under which—

[(A) the State works to reduce the use of diversion programs by educating and informing prosecutors and judges through various outreach methods about the benefits and merits of prosecuting and adjudicating defendants who repeatedly commit impaired driving offenses;

[(B) the courts in a majority of the judicial jurisdictions of the State are monitored on the courts' adjudication of cases of impaired driving offenses; or

[(C) annual statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.

[(3) TESTING OF BAC.—An effective system for increasing from the previous year the rate of blood alcohol concentration testing of motor vehicle drivers involved in fatal accidents.

[(4) HIGH RISK DRIVERS.—A law that establishes stronger sanctions or additional penalties for individuals convicted of operating a motor vehicle while under the influence of alcohol whose blood alcohol concentration is 0.15 percent or more than for individuals convicted of the same offense but with a lower

blood alcohol concentration. For purposes of this paragraph, "additional penalties" includes—

[(A) a 1-year suspension of a driver's license, but with the individual whose license is suspended becoming eligible after 45 days of such suspension to obtain a provisional driver's license that would permit the individual to drive—

[(i) only to and from the individual's place of employment or school; and

[(ii) only in an automobile equipped with a certified alcohol ignition interlock device; and

[(B) a mandatory assessment by a certified substance abuse official of whether the individual has an alcohol abuse problem with possible referral to counseling if the official determines that such a referral is appropriate.

[(5) PROGRAMS FOR EFFECTIVE ALCOHOL REHABILITATION AND DWI COURTS.—A program for effective inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment for repeat offenders or a program to refer impaired driving cases to courts that specialize in driving while impaired cases that emphasize the close supervision of high-risk offenders.

[(6) UNDERAGE DRINKING PROGRAM.—An effective strategy, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such a strategy may include—

[(A) the issuance of tamper-resistant drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 or older; and

[(B) a program provided by a nonprofit organization for training point of sale personnel concerning, at a minimum—

[(i) the clinical effects of alcohol;

[(ii) methods of preventing second party sales of alcohol;

[(iii) recognizing signs of intoxication;

[(iv) methods to prevent underage drinking; and

[(v) Federal, State, and local laws that are relevant to such personnel; and

[(C) having a law in effect that creates a 0.02 percent blood alcohol content limit for drivers under 21 years old.

[(7) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that—

[(A) in the case of an individual who, in any 5-year period beginning after the date of enactment of the Transportation Equity Act for the 21st Century, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency re-

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sponsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

[(i) suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; except that under such suspension an individual may operate a motor vehicle, after the 15-day period beginning on the date of the suspension, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and

[(ii) suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; except that such individual to operate a motor vehicle, after the 45-day period beginning on the date of the suspension or revocation, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and

[(B) the suspension and revocation referred to under clauses (i) and (ii) take effect not later than 30 days after the date on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.

[(8) SELF SUSTAINING IMPAIRED DRIVING PREVENTION PROGRAM.—A program under which a significant portion of the fines or surcharges collected from individuals who are fined for operating a motor vehicle while under the influence of alcohol are returned to communities for comprehensive programs for the prevention of impaired driving.

[(d) USES OF GRANTS.—Subject to subsection (g)(2), grants made under this section may be used for all programs and activities described in subsection (c), and to defray the following costs:

[(1) Labor costs, management costs, and equipment procurement costs for the high visibility, Statewide law enforcement campaigns under subsection (c)(1).

[(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.

[(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.

[(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.

[(5) The costs of the development and implementation of a State impaired operator information system.

[(6) The costs of operating programs that result in vehicle forfeiture or impoundment or license plate impoundment.

[(e) ADDITIONAL AUTHORITIES FOR CERTAIN AUTHORIZED USES.—

[(1) COMBINATION OF GRANT PROCEEDS.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402.

[(2) COORDINATION OF USES.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—

[(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and

[(B) in coordination with sporting events and concerts and other entertainment events.

[(f) ALLOCATION.—Subject to subsection (g), funds made available to carry out this section shall be allocated among States that meet the eligibility criteria in subsection (b) on the basis of the apportionment formula under section 402(c).

[(g) GRANTS TO HIGH FATALITY RATE STATES.—

[(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each State that—

[(A) is among the 10 States with the highest impaired driving related fatalities as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; and

[(B) prepares a plan for grant expenditures under this subsection that is approved by the Administrator of the National Highway Traffic Safety Administration.

[(2) REQUIRED USES.—At least one-half of the amounts allocated to States under this subsection may only be used for the program described in subsection (c)(1).

[(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), except that no State shall be allocated more than 30 percent of the funds made available to carry out this subsection for a fiscal year.

[(4) FUNDING.—Not more than 15 percent per fiscal year of amounts made available to carry out this section for a fiscal year shall be made available by the Secretary for making grants under this subsection.

[(h) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.

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

[(1) ALCOHOLIC BEVERAGE.—The term “alcoholic beverage” has the meaning given such term in section 158(c).

[(2) CONTROLLED SUBSTANCES.—The term “controlled substances” has the meaning given such term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

[(3) MOTOR VEHICLE.—The term “motor vehicle” has the meaning given such term in section 405.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is crucial for ensuring the integrity of the financial statements and for providing a clear audit trail. The text notes that any discrepancies or errors in the records can lead to significant complications during an audit and may result in the disallowance of certain expenses.

2. The second part of the document outlines the specific requirements for record-keeping. It states that all receipts, invoices, and other supporting documents must be retained for a minimum of three years. Furthermore, it requires that these records be organized in a systematic and accessible manner, such as by date or by category, to facilitate the audit process.

3. The third part of the document addresses the issue of documentation for travel and entertainment expenses. It provides detailed guidelines on what constitutes a deductible expense and what documentation is necessary to substantiate these costs. For example, it requires that travel expenses be supported by receipts for transportation, lodging, and meals, and that entertainment expenses be supported by receipts and a log detailing the nature and purpose of the activity.

4. The fourth part of the document discusses the requirements for record-keeping for charitable contributions. It states that donors must retain receipts from the charitable organization for all contributions, and that these receipts must include the name of the organization, the date of the contribution, and the amount of the contribution. Additionally, it notes that contributions of non-cash assets must be supported by a qualified appraisal.

5. The fifth part of the document provides a summary of the key points discussed in the previous sections. It reiterates the importance of maintaining accurate and complete records and provides a checklist of the essential requirements for record-keeping. The text concludes by encouraging taxpayers to consult with a tax professional for more detailed information and to ensure that they are fully compliant with all applicable tax laws and regulations.

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[(4) IMPAIRED OPERATOR.—The term “impaired operator” means a person who, while operating a motor vehicle—

[(A) has a blood alcohol content of 0.08 percent or higher; or

[(B) is under the influence of a controlled substance.

[(5) IMPAIRED DRIVING RELATED FATALITY RATE.—The term “impaired driving related fatality rate” means the rate of alcohol related fatalities, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.

[§ 411. State highway safety data improvements

[(a) GENERAL AUTHORITY.—

[(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs—

[(A) to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

[(B) to evaluate the effectiveness of efforts to make such improvements;

[(C) to link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical and economic data; and

[(D) to improve the compatibility of the data system of the State with national data systems and data systems of other States and to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.

Such grants may be used by recipient States only to implement such programs.

[(2) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall demonstrate how the multiyear highway safety data and traffic records plan of the State described in subsection (b)(1) will be incorporated into data systems of the State.

[(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of the Transportation Equity Act for the 21st Century.

[(4) MAXIMUM PERIOD OF ELIGIBILITY.—No State may receive grants under this section in more than 6 fiscal years beginning after September 30, 1997.

[(5) FEDERAL SHARE.—The Federal share of the cost of implementing and enforcing, as appropriate, in a fiscal year a

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program adopted by a State pursuant to paragraph (1) shall not exceed—

[(A) in the first and second fiscal years in which the State receives a grant under this section, 75 percent;

[(B) in the third and fourth fiscal years in which the State receives a grant under this section, 50 percent; and

[(C) in the fifth and sixth fiscal years in which the State receives a grant under this section, 25 percent.

[(b) FIRST-YEAR GRANTS.—

[(1) ELIGIBILITY.—A State shall become eligible for a first-year grant under this subsection in a fiscal year if the State either—

[(A) demonstrates, to the satisfaction of the Secretary, that the State has—

[(i) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership, including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities);

[(ii) completed, within the preceding 5 years, a highway safety data and traffic records assessment or an audit of the highway safety data and traffic records system of the State; and

[(iii) initiated the development of a multiyear highway safety data and traffic records strategic plan that—

[(I) identifies and prioritizes the highway safety data and traffic records needs and goals of the State;

[(II) identifies performance-based measures by which progress toward those goals will be determined; and

[(III) will be submitted to the highway safety data and traffic records coordinating committee of the State for approval; or

[(B) provides, to the satisfaction of the Secretary—

[(i) a certification that the State has met the requirements of clauses (i) and (ii) of subparagraph (A);

[(ii) a multiyear highway safety data and traffic records strategic plan that—

[(I) meets the requirements of subparagraph (A)(iii); and

[(II) specifies how the incentive funds of the State for the fiscal year will be used to address needs and goals identified in the plan; and

[(iii) a certification that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan described in clause (ii).

[(2) GRANT AMOUNTS.—The amount of a first-year grant made to a State for a fiscal year under this subsection shall equal—

[(A) if the State is eligible for the grant under paragraph (1)(A), \$125,000; and

[(B) if the State is eligible for the grant under paragraph (1)(B), an amount determined by multiplying—

[(i) the amount appropriated to carry out this section for such fiscal year; by

[(ii) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under paragraph (1)(B) shall receive less than \$250,000.

[(3) STATES NOT MEETING CRITERIA.—The Secretary may award a grant of up to \$25,000 for 1 year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable the State to qualify for a first-year grant in the next fiscal year.

[(c) SUCCEEDING YEAR GRANTS.—

[(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

[(A) submits or updates a multiyear highway safety data and traffic records strategic plan that meets the requirements of subsection (b)(1);

[(B) certifies that the highway safety data and traffic records coordinating committee of the State continues to operate and supports the multiyear plan; and

[(C) reports annually on the progress of the State in implementing the multiyear plan.

[(2) GRANT AMOUNTS.—The amount of a succeeding year grant made to the State for a fiscal year under this paragraph shall equal the amount determined by multiplying—

[(A) the amount appropriated to carry out this section for such fiscal year; by

[(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 1997 bears to the funds apportioned to all States under section 402 for fiscal year 1997;

except that no State eligible for a grant under this paragraph shall receive less than \$225,000.

[(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

[(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.]

* * * * *

CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION

- Sec.
- 501. Definitions.
- 502. Surface transportation research.
- 503. Technology deployment program.]

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502. Surface transportation research, development, and technology.

503. Research and development.

503a. Technology and innovation deployment program.

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[506. International highway transportation outreach program.

[507. Surface transportation environment and planning cooperative research program.]

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[509. National cooperative freight transportation research program.

[510. Future strategic highway research program.]

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[512. National ITS Program Plan.

[513. Use of funds for ITS activities.]

512. National intelligent transportation systems program plan.

513. Use of funds for intelligent transportation systems activities.

514. Intelligent transportation systems program goals and purposes.

515. Intelligent transportation systems program general authority and requirements.

516. Intelligent transportation systems research and development.

517. Intelligent transportation systems national architecture and standards.

§ 501. Definitions

In this chapter, the following definitions apply:

(1) **CONNECTED VEHICLE TECHNOLOGY.**—The term “connected vehicle technology” means the utilization of wireless technology to enable multiple vehicles to communicate information to each other.

[(1)] (2) **FEDERAL LABORATORY.**—The term “Federal laboratory” includes a Government-owned, Government-operated laboratory and a Government-owned, contractor-operated laboratory.

(3) **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.

(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 term “intelligent transportation system” means 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.**—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.

[(2)] (7) **SAFETY.**—The term “safety” includes highway and traffic safety systems, research, and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian

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characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

* * * * *

§ 502. Surface transportation [research] research, development, and technology

(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

(1) * * *

(2) **FEDERAL RESPONSIBILITY.**—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when the work—

(A) * * *

(B) *addresses current or emerging needs;*

[(B) supports research in which there is] (C) *delivers a clear public benefit and private sector investment is less than optimal;*

[(C)] (D) *supports a Federal stewardship role in assuring that State and local governments use national resources efficiently; [or]*

[(D)] (E) *presents the best means to support Federal policy goals compared to other policy alternatives[.];*

(F) *presents the best means to align resources with multiyear plans and priorities; or*

(G) *ensures the coordination of highway research and technology transfer activities, including those performed by the university transportation centers established under subchapter I of chapter 55 of title 49.*

(3) **ROLE.**—Consistent with these Federal responsibilities, the Secretary shall—

(A) * * *

(B) *[support and] partner with State transportation departments and other stakeholders as appropriate to facilitate research and technology transfer activities [by State highway agencies];*

(C) *[share] communicate results of on-going and completed research; [and]*

(D) *[support and facilitate technology] lead efforts to coordinate areas of national emphasis for highway research, technology, and innovation deployment[.];*

(E) *leverage partnerships with industry, academia, and other entities; and*

(F) *conduct, facilitate, and support training and education of current and future transportation professionals.*

(4) **PROGRAM CONTENT.**—A surface transportation research program shall include—

(A) * * *

* * * * *

(C) *research related to [policy and planning] all highway objectives seeking to improve the performance of the transportation system.*

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(5) **STAKEHOLDER INPUT.**—Federal surface transportation research and development activities shall address the needs of stakeholders. Stakeholders include States, metropolitan planning organizations, local governments, *tribal governments*, the private sector, researchers, research sponsors, and other affected parties, including public interest groups.

* * * * *

[(7) **PERFORMANCE REVIEW AND EVALUATION.**—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation. Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent possible, be outcome-based. All evaluations shall be made readily available to the public.]

(7) **PERFORMANCE REVIEW AND EVALUATION.**—

(A) **IN GENERAL.**—*To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation.*

(B) **PERFORMANCE MEASURES.**—*Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent practicable, be outcome-based.*

(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.*

(D) **AVAILABILITY OF EVALUATIONS.**—*All evaluations under this paragraph shall be made readily available to the public.*

(8) **TECHNOLOGICAL INNOVATION.**—The programs and activities carried out under this section shall be consistent with the [surface] transportation research and technology development strategic plan developed under section 508.

(b) **GENERAL AUTHORITY.**—

(1) * * *

* * * * *

[(4) **TECHNOLOGICAL INNOVATION.**—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508.]

(4) **TECHNOLOGICAL INNOVATION.**—*The Secretary shall ensure that the programs and activities carried out under this chapter are consistent with the transportation research and development strategic plan developed under section 508.*

(5) **FUNDS.**—

(A) **SPECIAL ACCOUNT.**—In addition to other funds made available to carry out this [section] chapter, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

(B) **USE OF FUNDS.**—The Secretary shall use funds made available to carry out this [section] chapter to de-

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velop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this [section] chapter.

(6) POOLED FUNDING.—

(A) * * *

* * * * *

(C) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—The Secretary, at the request of a State, may transfer funds apportioned or allocated under this chapter to the State to another State, or to the Federal Highway Administration, for the purpose of funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

(D) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for projects that are transferred under this subsection.

(7) PRIZE COMPETITIONS.—

(A) IN GENERAL.—Consistent with section 24 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may carry out a program to award prizes competitively to stimulate innovation in the area of surface transportation that has the potential to advance the Federal Highway Administration's research and technology objectives and activities under section 503.

(B) ANNUAL REPORT.—

(i) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Science, Space, and Technology of the House of Representatives and the Committees on Environment and Public Works and Commerce, Science, and Transportation of the Senate a report on the activities carried out during the preceding fiscal year under the authority in subparagraph (A) if such authority under subparagraph (A) was utilized by the Secretary.

(ii) INFORMATION INCLUDED.—A report under this subparagraph shall include, for each prize competition under subparagraph (A), the following:

(I) A description of the proposed goals of each prize competition.

(II) An analysis of why the utilization of the authority in subparagraph (A) was the preferable method of achieving the goals described in subclause (I) as opposed to other authorities available to the agency, such as contracts, grants, and cooperative agreements.

(III) The total amount of cash prizes awarded for each prize competition, including a description of the amount of private funds contributed to the program, the sources of such funds, and the manner in which the amounts of cash prizes awarded and claimed were allocated among the accounts of

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the agency for recording as obligations and expenditures.

(IV) The methods used for the solicitation and evaluation of submissions under each prize competition, together with an assessment of the effectiveness of such methods and lessons learned for future prize competitions.

(V) A description of the resources, including personnel and funding, used in the execution of each prize competition together with a detailed description of the activities for which such resources were used and an accounting of how funding for execution was allocated among the accounts of the agency for recording as obligations and expenditures.

(VI) A description of how each prize competition advanced the mission of the Department of Transportation.

(c) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) * * *

* * * * *

(3) FEDERAL SHARE.—

(A) IN GENERAL.—~~【The】~~ *Except as otherwise provided in this chapter, the Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this [subsection] chapter shall not exceed [50] 80 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.*

* * * * *

(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this [subsection] chapter, 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.).

* * * * *

[(d) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include in surface transportation research, technology development, and technology transfer programs carried out under this title coordinated activities in the following areas:

[(1) Development, use, and dissemination of indicators, including appropriate computer programs for collecting and analyzing data on the status of infrastructure facilities, to measure the performance of the surface transportation systems of the United States, including productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect system performance.

[(2) Methods, materials, and testing to improve the durability of surface transportation infrastructure facilities and extend the life of bridge structures, including—

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- [(A) new and innovative technologies to reduce corrosion;
 - [(B) tests simulating seismic activity, vibration, and weather; and
 - [(C) the use of innovative recycled materials.
- [(3) Technologies and practices that reduce costs and minimize disruptions associated with the construction, rehabilitation, and maintenance of surface transportation systems, including responses to natural disasters.
- [(4) Development of nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials.
- [(5) Dynamic simulation models of surface transportation systems for—
- [(A) predicting capacity, safety, and infrastructure durability problems;
 - [(B) evaluating planned research projects; and
 - [(C) testing the strengths and weaknesses of proposed revisions to surface transportation system management and operations programs.
- [(6) Economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and the feasibility of uniformity in State regulations with respect to such standards.
- [(7) Telecommuting and the linkages between transportation, information technology, and community development and the impact of technological change and economic restructuring on travel demand.
- [(8) Expansion of knowledge of implementing life cycle cost analysis, including—
- [(A) establishing the appropriate analysis period and discount rates;
 - [(B) learning how to value and properly consider use costs;
 - [(C) determining tradeoffs between reconstruction and rehabilitation; and
 - [(D) establishing methodologies for balancing higher initial costs of new technologies and improved or advanced materials against lower maintenance costs.
- [(9) Standardized estimates, to be developed in conjunction with the National Institute of Standards and Technology and other appropriate organizations, of useful life under various conditions for advanced materials of use in surface transportation.
- [(10) Evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.
- [(11) Development and implementation of safety-enhancing equipment, including unobtrusive eyetracking technology.
- [(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and nonrecurrent congestion and increase transportation system reliability.

[(13) Investigation of processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations and the impact of good security practices on commerce and productivity.

[(14) Research, development, and technology transfer related to asset management.

[(e) EXPLORATORY ADVANCED RESEARCH.—

[(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508 that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems. In carrying out the program, the Secretary shall strive to develop partnerships with public and private sector entities.

[(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas of surface transportation research and technology as the Secretary determines appropriate, including the following:

[(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

[(B) Assessment of the effects of transportation decisions on human health.

[(C) Development of surrogate measures of safety.

[(D) Environmental research.

[(E) Data acquisition techniques for system condition and performance monitoring.

[(F) System performance data and information processing needed to assess the day-to-day operational performance of the system in support of hour-to-hour operational decisionmaking.

[(f) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

[(1) AUTHORITY.—The Secretary shall continue to carry out, through September 30, 2009, tests, monitoring, and data analysis under the long-term pavement performance program.

[(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

[(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

[(B) analyze the data obtained under subparagraph (A); and

[(C) prepare products to fulfill program objectives and meet future pavement technology needs.

[(g) SEISMIC RESEARCH.—The Secretary shall—

[(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards

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Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;

[(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

[(A) planning and coordination activities of the National Institute of Standards and Technology under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

[(B) the plan developed by the Director of the National Institute of Standards and Technology under section 8(b) of that Act (42 U.S.C. 7705b(b)); and

[(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, and the National Center for Earthquake Engineering Research at the University of Buffalo, carry out a seismic research program—

[(A) to study the vulnerability of the Federal-aid system and other surface transportation systems to seismic activity;

[(B) to develop and implement cost-effective methods to reduce the vulnerability; and

[(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.

[(h) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

[(1) IN GENERAL.—Not later than July 31, 2006, and July 31 of every second year thereafter, 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—

[(A) estimates of the future highway, transit, and bridge needs of the United States; and

[(B) the backlog of current highway, transit, and bridge needs.

[(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

[(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

[(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

[(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—

[(A) the conduct of highway research and development related to new highway technology;

[(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials; and

[(C) the development of innovative highway products and practices.

[(j) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

[(1) AUTHORITY.—The Secretary shall establish a 20-year long-term bridge performance program.

[(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

- [(A) monitor, material-test, and evaluate test bridges;
- [(B) analyze the data obtained under subparagraph (A); and
- [(C) prepare products to fulfill program objectives and meet future bridge technology needs.

[§ 503. Technology deployment

[(a) TECHNOLOGY DEPLOYMENT PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.

[(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of innovative technologies by the surface transportation community.

[(3) DEPLOYMENT GOALS.—

[(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish not more than 5 deployment goals to carry out paragraph (1).

[(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

[(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

[(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to disseminate the results of research sponsored by the Secretary and to facilitate technology transfer.

[(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

[(6) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

[(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

[(A) IN GENERAL.—Under the program, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and non-