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profit organizations to pay the Federal share of the cost of research, development, and technology transfer activities concerning innovative materials.

[(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the grant meets the purpose of the program described in paragraph (2).

[(8) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under paragraph (7) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

[(9) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for their use.

[(b) INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.—

[(1) IN GENERAL.—The Secretary shall establish and carry out a program to promote, demonstrate, evaluate, and document the application of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges and other highway structures.

[(2) GOALS.—The goals of the program shall include—

[(A) the development of new, cost-effective, innovative highway bridge applications;

[(B) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

[(C) the development of engineering design criteria for innovative products, materials, and structural systems for use in highway bridges and structures;

[(D) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

[(E) the development of highway bridges and structures that will withstand natural disasters;

[(F) the documentation and wide dissemination of objective evaluations of the performance and benefits of these innovative designs, materials, and construction methods;

[(G) the effective transfer of resulting information and technology; and

[(H) the development of improved methods to detect bridge scour and economical bridge foundation designs that will withstand bridge scour.

[(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

[(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

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[(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

[(ii) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrate the application of innovative materials.

[(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the grant meets the goals of the program described in paragraph (2).

[(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

[(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

[(c) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—

[(1) IN GENERAL.—The Secretary shall establish and implement a program to promote, demonstrate, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

[(2) GOALS.—The goals of the innovative pavement research and deployment program shall include—

[(A) the deployment of new, cost-effective, innovative designs, materials, recycled materials (including taconite tailings and foundry sand), and practices to extend pavement life and performance and to improve customer satisfaction;

[(B) the reduction of initial costs and life-cycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

[(C) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

[(D) the deployment of engineering design criteria and specifications for innovative practices, products, and materials for use in highway pavements;

[(E) the deployment of new nondestructive and real-time pavement evaluation technologies and techniques;

[(F) the evaluation, refinement, and documentation of the performance and benefits of innovative technologies deployed to improve life, performance, cost effectiveness, safety, and customer satisfaction;

[(G) effective technology transfer and information dissemination to accelerate implementation of innovative technologies and to improve life, performance, cost effectiveness, safety, and customer satisfaction; and

[(H) the development of designs and materials to reduce storm water runoff.

[(3) RESEARCH TO IMPROVE NHS PAVEMENT.—The Secretary shall obligate for each of fiscal years 2006 through 2009 from funds made available to carry out this subsection, \$4,100,000 to conduct research to improve asphalt pavement, \$4,100,000 to conduct research to improve concrete pavement, \$4,100,000 to conduct research to improve alternative materials used in highways (including alternative materials used in highway drainage applications), and \$2,450,000 to conduct research to improve aggregates used in highways on the National Highway System.

[(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

[(1) IN GENERAL.—The Secretary shall establish and implement a program to demonstrate the application of innovative technologies in highway safety.

[(2) GOALS.—The goals of the program shall include—

[(A) the deployment and evaluation of safety technologies and innovations at State and local levels; and

[(B) the deployment of best practices in training, management, design, and planning.

[(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

[(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and non-profit organizations for research, development, and technology transfer for innovative safety technologies.

[(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application at such time and containing such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the application meets the goals of the program described in paragraph (2).

[(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

[(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the recruitment of individuals and to promote the programs of the Federal Highway Administration.]

**§ 503. Research and development**

(a) *IN GENERAL.*—The Secretary shall establish a research and development program in accordance with this section and the strategic plan developed under section 508.

(b) *RESPONSIBILITIES.*—To address current and emerging highway transportation needs, the Secretary, in carrying out the program under this section, shall—

- (1) identify research topics;
- (2) conduct research, testing, and evaluation activities;
- (3) facilitate technology transfer;
- (4) provide technical assistance; and
- (5) ensure program activities are coordinated with the transportation research and development strategic plan developed under section 508.

(c) *IMPROVING HIGHWAY SAFETY.*—

(1) *OBJECTIVES.*—In carrying out the program under this section, the Secretary shall create systematic measures to improve highway safety for all road users, vehicles, and public roads to—

- (A) achieve greater long-term safety gains;
- (B) reduce the number of fatalities and serious injuries;
- (C) fill knowledge gaps that currently limit the effectiveness of research;
- (D) support the development and implementation of State strategic highway safety plans under section 148;
- (E) advance improvements in and use of performance prediction analysis for decisionmaking;
- (F) expand technology transfer to partners and stakeholders;
- (G) achieve safety benefits through connected vehicle technology; and
- (H) enhance rural highway safety.

(2) *ACTIVITIES.*—Research and development activities carried out under this subsection may include activities relating to—

- (A) safety assessments and decisionmaking tools;
- (B) data collection and analysis;
- (C) crash reduction projections;
- (D) low-cost safety countermeasures;
- (E) innovative operational improvements and designs of roadway and roadside features;
- (F) evaluation of countermeasure costs and benefits;
- (G) development of tools for projecting impacts of safety countermeasures;
- (H) rural road safety;
- (I) safety policy studies;
- (J) human factors studies and methods;
- (K) safety technology deployment;
- (L) safety program and process improvements; and
- (M) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

(d) *IMPROVING HIGHWAY INFRASTRUCTURE INTEGRITY.*—

(1) *OBJECTIVES.*—In carrying out the program under this section, the Secretary shall improve the ability to maintain highway infrastructure integrity, meet user needs, and improve system performance through targeted Federal transportation investments to—

(A) reduce the number of fatalities attributable to highway infrastructure design characteristics and work zones;

(B) improve the safety of highway infrastructure;

(C) increase the reliability of life-cycle performance predictions used in highway infrastructure design, construction, and management;

(D) improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

(E) reduce user delay attributable to highway infrastructure system performance, maintenance, rehabilitation, and construction;

(F) improve highway condition and performance through increased use of innovative pavements during highway design, construction, and maintenance;

(G) improve highway condition and performance through increased use of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges;

(H) reduce the life-cycle environmental impacts of highway infrastructure, including design, construction, operation, preservation, and maintenance; and

(I) improve the resiliency of roadways to commercial heavy freight traffic.

(2) *ACTIVITIES.*—Research and technology activities carried out under this subsection may include activities relating to—

(A) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

(B) short-term and accelerated studies of highway infrastructure performance;

(C) the development of more durable highway and bridge infrastructure materials and systems, including the use of carbon fiber composite materials in bridge replacement and rehabilitation;

(D) advanced highway and bridge infrastructure design methods;

(E) accelerated highway construction;

(F) performance-based specifications;

(G) construction and materials quality assurance;

(H) comprehensive and integrated highway infrastructure asset management;

(I) technology transfer and adoption of permeable, pervious, or porous paving materials, practices, and systems that are designed to minimize environmental impacts, stormwater runoff, and flooding and to treat or remove pollutants by allowing stormwater to infiltrate through the pavement in a manner similar to predevelopment hydrologic conditions;

(J) sustainable highway infrastructure design and construction;

(K) highway and bridge infrastructure rehabilitation and preservation techniques, including those techniques to address historic infrastructure;

(L) hydraulic, geotechnical, and aerodynamic aspects of highway infrastructure;

(M) improved highway construction technologies and practices;

(N) improved tools, technologies, and models for highway and bridge infrastructure management, including assessment and monitoring of infrastructure condition;

(O) improving flexibility and resiliency of highway and bridge infrastructure systems to withstand climate variability; and

(P) highway infrastructure resilience and other adaptation measures.

(e) REDUCING CONGESTION, IMPROVING HIGHWAY OPERATIONS, AND ENHANCING FREIGHT PRODUCTIVITY.—

(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall examine approaches to reduce traffic congestion (including freight-related congestion throughout the transportation network), reduce the costs of such congestion, and improve freight movement.

(2) ACTIVITIES.—Research and technology activities carried out under this subsection may include examination of—

(A) active traffic and demand management;

(B) accelerating deployment of intelligent transportation systems;

(C) arterial management and traffic signal operation;

(D) congestion pricing;

(E) corridor management;

(F) emergency operations;

(G) freeway management;

(H) impacts of vehicle size and weight;

(I) freight operations and technology;

(J) operations and freight performance measurement and management;

(K) organizing and planning for operations;

(L) planned special events management;

(M) real-time transportation information, including real-time ridesharing;

(N) road weather management;

(O) traffic and freight data and analysis tools;

(P) traffic control devices;

(Q) traffic incident management;

(R) workzone management;

(S) mechanisms that communicate travel, roadway, and emergency information to all road users (as defined in section 148); and

(T) enhanced mode choice and intermodal connectivity.

(f) ASSESSING POLICY AND SYSTEM FINANCING ALTERNATIVES.—

(1) OBJECTIVES.—In carrying out the program under this section, the Secretary shall conduct policy analysis on emerging

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issues in the transportation community to provide information to policymakers and decisionmakers.

(2) **ACTIVITIES.**—Research and technology activities carried out under this subsection may include activities relating to—

- (A) highway needs and investment analysis;
- (B) analysis of legislative development and implementation;
- (C) highway policy analysis;
- (D) the effect of highway congestion on the economy;
- (E) research in emerging policy areas;
- (F) advancing innovations in revenue generation, financing, and procurement for project delivery;
- (G) improving project financial and cost analysis;
- (H) highway performance measurement;
- (I) travel demand performance measurement; and
- (J) highway finance performance measurement.

(3) **INFRASTRUCTURE INVESTMENT NEEDS REPORT.**—

(A) **IN GENERAL.**—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of highway and bridge needs at the time of the report.

(B) **COMPARISON.**—Each report under subparagraph (A) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

(g) **EXPLORATORY ADVANCED RESEARCH.**—In carrying out the program under this section, the Secretary shall conduct long-term, higher-risk research, consistent with the transportation research and development plan under section 508, with the potential for dramatic breakthroughs in the field of highway transportation.

(h) **GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.**—

(1) **IN GENERAL.**—In carrying out the program under this section, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities.

(2) **APPLICATIONS.**—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and contain such information and assurances as the Secretary may require.

(3) **TECHNOLOGY AND INFORMATION TRANSFER.**—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.

(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 Center shall support—

(A) the conduct of highway research and development related to new highway technology, including connected vehicle 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;

(C) the development of innovative highway products and practices; and

(D) long-term high-risk research to improve the materials used in highway infrastructure.

(j) *CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.*—

(1) *ESTABLISHMENT.*—The Secretary may establish not more than 4 centers for surface transportation excellence.

(2) *GOALS.*—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation.

(3) *ROLE OF THE CENTERS.*—To achieve the goals set forth in paragraph (2), the Secretary shall establish centers that provide technical assistance, information sharing of best practices, and training in the use of tools and decisionmaking processes that can assist States in effectively implementing surface transportation programs, projects, and policies.

(4) *PROGRAM ADMINISTRATION.*—

(A) *COMPETITION.*—A party entering into a contract, cooperative agreement, or other transaction with the Secretary under this subsection, or receiving a grant to perform research or provide technical assistance under this subsection, shall be selected on a competitive basis.

(B) *STRATEGIC PLAN.*—The Secretary shall require each center to develop a multiyear strategic plan, and submit the plan to the Secretary at such time as the Secretary requires, that describes—

(i) the activities to be undertaken by the center; and

(ii) how the work of the center will be coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this chapter.

(5) *FUNDING.*—Of the amounts made available by section 7001(a)(1) of the American Energy and Infrastructure Jobs Act of 2012, not more than \$3,000,000 for each of fiscal years 2013 through 2016 shall be available to carry out this subsection.

**§ 503a. Technology and innovation deployment program**

(a) *IN GENERAL.*—The Secretary, in accordance with the strategic plan developed under section 508, shall carry out a technology

and innovation deployment program on all aspects of highway transportation by promoting and facilitating the products, technologies, tools, methods, or other findings resulting from highway research conducted under this chapter.

(b) **OBJECTIVES.**—The Secretary shall seek to advance the following objectives:

(1) Significantly accelerate the adoption of innovative technologies by the surface transportation community.

(2) Significantly accelerate the adoption of advanced modeling technologies, as described in section 106, by the surface transportation community.

(3) Provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

(4) Advance longer-lasting highways using innovative technologies and practices to accomplish more rapid construction of efficient and safe highways and bridges.

(5) Improve highway efficiency, safety, mobility, reliability, service life, and environmental protection.

(6) Develop and deploy new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

(7) Enhance deployment and operations of intelligent transportation systems.

(c) **ACTIVITIES.**—The program may include—

(1) activities conducted under section 503;

(2) other technologies and innovations requiring additional development and testing not performed under section 503 but necessary to bring about successful deployment and delivery; and

(3) developing and improving innovative technologies and practices and exploring new technologies to accelerate innovation adoption.

(d) **GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.**—

(1) **IN GENERAL.**—Under the program, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, institutions of higher education, private sector entities, Federal laboratories, and non-profit organizations to pay the Federal share of the cost of research, development, and deployment activities.

(2) **APPLICATIONS.**—To receive a grant under this subsection, an entity described in paragraph (1) shall submit an application to the Secretary. The application shall be in such form and contain such information and assurances as the Secretary may require.

(3) **TECHNOLOGY AND INFORMATION TRANSFER.**—The Secretary shall ensure that the information and technology resulting from research conducted under this subsection is made available to State and local transportation departments and other interested parties as specified by the Secretary.

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(e) DEPLOYMENT OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM RESULTS AND PRODUCTS.—

(1) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the National Academy of Sciences, shall promote research results and products developed under the Strategic Highway Research Program 2 administered by the Transportation Research Board of the National Academy of Sciences.

(2) STRATEGY OF PROMOTION.—The Secretary, to the extent practicable, shall base the deployment of research results and products described in paragraph (1) on the recommendations included in the Transportation Research Board Special Report 296 entitled "Implementing the Results of the Second Strategic Highway Research Program: Saving Lives, Reducing Congestion, Improving Quality of Life".

§ 504. Training and education

(a) NATIONAL HIGHWAY INSTITUTE.—

(1) \* \* \*

(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

[(A) Federal Highway Administration, State, and local transportation agency employees;]

(A) Federal Highway Administration employees, State and local transportation agency employees, and Federal agency partners;

\* \* \* \* \*

(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

(1) \* \* \*

\* \* \* \* \*

[(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.]

(3) FEDERAL SHARE.—

(A) LOCAL TECHNICAL ASSISTANCE CENTERS.—Subject to clause (ii), the Federal share of the cost of any activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent, except that the remaining share may include funds provided to a recipient under subsection (e) or section 505.

(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.

(c) RESEARCH FELLOWSHIPS.—

(1) \* \* \*

(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation.

The program shall be known as the "Dwight David Eisenhower Transportation Fellowship Program". *Funds provided to institutions of higher education to carry out this paragraph shall be used in direct support of student expenses associated with their transportation studies.*

**[(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—**

**[(1) IN GENERAL.—**The Secretary shall establish the Garrett A. Morgan Technology and Transportation Education Program to improve the preparation of students, particularly women and minorities, in science, technology, engineering, and mathematics through curriculum development and other activities related to transportation.

**[(2) AUTHORIZED ACTIVITIES.—**The Secretary shall award grants under this subsection on the basis of competitive peer review. Grants awarded under this subsection may be used for enhancing science, technology, engineering, and mathematics at the elementary and secondary school level through such means as—

**[(A)** internships that offer students experience in the transportation field;

**[(B)** programs that allow students to spend time observing scientists and engineers in the transportation field; and

**[(C)** developing relevant curriculum that uses examples and problems related to transportation.

**[(3) APPLICATION AND REVIEW PROCEDURES.—**

**[(A) IN GENERAL.—**An entity described in subparagraph (C) seeking funding under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application, at a minimum, shall include a description of how the funds will be used to serve the purposes described in paragraph (2).

**[(B) PRIORITY.—**In making awards under this subsection, the Secretary shall give priority to applicants that will encourage the participation of women and minorities.

**[(C) ELIGIBILITY.—**Local educational agencies and State educational agencies, which may enter into a partnership agreement with institutions of higher education, businesses, or other entities, shall be eligible to apply for grants under this subsection.

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

**[(A) INSTITUTION OF HIGHER EDUCATION.—**The term "institution of higher education" has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

**[(B) LOCAL EDUCATIONAL AGENCY.—**The term "local educational agency" has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

**[(C) STATE EDUCATIONAL AGENCY.—**The term "State educational agency" has the meaning given that term in

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section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).】

【(e)】 (d) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—

(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under [sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)] paragraphs (1), (2), and (3) of section 104(b) for surface transportation workforce development, training, and education, including—

(A) \* \* \*

\* \* \* \* \*

(D) university or community college support; [and]

(E) education activities, including outreach, to develop interest and promote participation in surface transportation careers【.】;

(F) activities delivered by the National Highway Institute under subsection (a); and

(G) the local technical assistance program under subsection (b).

(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent, except for activities carried out under paragraph (1)(G), for which the Federal share shall be 50 percent as described in subsection (b)(3)(A).

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【(f)】 (e) TRANSPORTATION EDUCATION DEVELOPMENT 【PILOT】 PROGRAM.—

(1) \* \* \*

\* \* \* \* \*

【(g)】 (f) FREIGHT CAPACITY BUILDING PROGRAM.—

(1) \* \* \*

\* \* \* \* \*

§ 505. State planning and research

(a) GENERAL RULE.—Two percent of the sums apportioned to a State for fiscal year 1998 and each fiscal year thereafter under section 104 (other than sections 104(f) and [104(h)] and under section 144] 104(i) shall be available for expenditure by the State, in consultation with the Secretary, only for the following purposes:

(1) \* \* \*

\* \* \* \* \*

(5) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, intercity bus, and intermodal transportation systems.

\* \* \* \* \*

(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

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(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities described in subsection (a), relating to highway, public transportation, *intercity bus*, and intermodal transportation systems.

\* \* \* \* \*

**[§ 506. International highway transportation outreach program**

**[(a) ESTABLISHMENT.—**The Secretary may establish an international highway transportation outreach program—

**[(1)** to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

**[(2)** to promote United States highway transportation expertise, goods, and services in foreign countries; and

**[(3)** to increase transfers of United States highway transportation technology to foreign countries.

**[(b) ACTIVITIES.—**Activities carried out under the program may include—

**[(1)** the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

**[(2)** research, development, demonstration, training, and other forms of technology transfer and exchange;

**[(3)** the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

**[(4)** the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

**[(5)** the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

**[(6)** the gathering and dissemination of information on foreign transportation markets and industries.

**[(c) COOPERATION.—**The Secretary may carry out this section in cooperation with any appropriate—

**[(1)** Federal, State, or local agency;

**[(2)** authority, association, institution, or organization;

**[(3)** for-profit or nonprofit corporation;

**[(4)** national or international entity;

**[(5)** foreign country; or

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[(6) person.

[(d) FUNDS.—

[(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

[(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

[(A) promotional materials;

[(B) travel;

[(C) reception and representation expenses; and

[(D) salaries and benefits.

[(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department employees providing services under this section shall be credited to the account.

[(e) REPORT.—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.

**[(§ 507. Surface transportation-environment cooperative research program**

[(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

[(b) CONTENTS.—The program carried out under this section may include research—

[(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

[(2) to improve understanding of the factors that contribute to the demand for transportation;

[(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

[(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

[(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

[(c) PROGRAM ADMINISTRATION.—The Secretary shall—

[(1) administer the program established under this section; and

[(2) ensure, to the maximum extent practicable, that—

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[(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

[(i) on the basis of merit of each submitted proposal; and

[(ii) through the use of open solicitations and selection by a panel of appropriate experts;

[(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

[(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

[(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 510.

[(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.]

**§ 508. Transportation research and development strategic planning**

(a) IN GENERAL.—

(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of the [SAFETEA-LU] *American Energy and Infrastructure Jobs Act of 2012*, the Secretary, acting through the Administrator of the Research and Innovative Technology Administration, shall develop a 5-year transportation research and development strategic plan to guide Federal transportation research and development activities. This plan shall be consistent with section 306 of title 5, sections 1115 and 1116 of title 31, and any other research and development plan within the Department of Transportation.

(2) CONTENTS.—The strategic plan developed under paragraph (1) shall—

(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

(i) \* \* \*

\* \* \* \* \*

(iii) [promoting security] *improving goods movement*;

\* \* \* \* \*

**§ 509. National cooperative freight transportation research program**

[(a) ESTABLISHMENT.—The Secretary shall establish and support a national cooperative freight transportation research program.

[(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences to support and carry out administrative and management activities relating to the governance of the national cooperative freight transportation research program.

[(c) ADVISORY COMMITTEE.—The National Academy of Sciences shall select an advisory committee consisting of a representative cross-section of freight stakeholders, including the Department of Transportation, other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.

[(d) GOVERNANCE.—The national cooperative freight transportation research program established under this section shall include the following administrative and management elements:

[(1) NATIONAL RESEARCH AGENDA.—The advisory committee, in consultation with interested parties, shall recommend a national research agenda for the program. The agenda shall include a multiyear strategic plan.

[(2) INVOLVEMENT.—Interested parties may—

[(A) submit research proposals to the advisory committee;

[(B) participate in merit reviews of research proposals and peer reviews of research products; and

[(C) receive research results.

[(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The National Academy of Sciences may award research contracts and grants under the program through open competition and merit review conducted on a regular basis.

[(4) EVALUATION OF RESEARCH.—

[(A) PEER REVIEW.—Research contracts and grants under the program may allow peer review of the research results.

[(B) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis of research contracts and grants.

[(5) DISSEMINATION OF RESEARCH FINDINGS.—The National Academy of Sciences shall disseminate research findings to researchers, practitioners, and decisionmakers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to government officials, the World Wide Web, publications for the general public, and other appropriate means.

[(e) CONTENTS.—The national research agenda required under subsection (d)(1) shall include research in the following areas:

[(1) Techniques for estimating and quantifying public benefits derived from freight transportation projects.

[(2) Alternative approaches to calculating the contribution of truck and rail traffic to congestion on specific highway segments.

[(3) The feasibility of consolidating origins and destinations for freight movement.

[(4) Methods for incorporating estimates of international trade into landside transportation planning.

[(5) The use of technology applications to increase capacity of highway lanes dedicated to truck-only traffic.

[(6) Development of physical and policy alternatives for separating car and truck traffic.

[(7) Ways to synchronize infrastructure improvements with freight transportation demand.

[(8) The effect of changing patterns of freight movement on transportation planning decisions relating to rest areas.

[(9) Other research areas to identify and address emerging and future research needs related to freight transportation by all modes.

[(f) FUNDING.—

[(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 per cent.

[(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized for this section, the National Academy of Sciences may seek and accept additional funding sources from public and private entities capable of accepting funding from the Department of Transportation, States, local governments, nonprofit foundations, and the private sector.

[(3) PERIOD OF AVAILABILITY.—Amounts made available to carry out this section shall remain available until expended.

#### **§ 510. Future strategic highway research program**

[(a) ESTABLISHMENT.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials, shall establish and carry out, acting through the National Research Council of the National Academy of Sciences, the future strategic highway research program.

[(b) COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the American Association of State Highway and Transportation Officials and the National Academy of Sciences to carry out such activities under this section as the Secretary determines are appropriate.

[(c) PROGRAM PRIORITIES.—

[(1) PROGRAM ELEMENTS.—The program established under this section shall be based on the National Research Council Special Report 260, entitled "Strategic Highway Research: Saving Lives, Reducing Congestion, Improving Quality of Life" and the results of the detailed planning work subsequently carried out in 2002 and 2003 to identify the research areas through National Cooperative Research Program Project 20-58. The research program shall include an analysis of the following:

[(A) Renewal of aging highway infrastructure with minimal impact to users of the facilities.

[(B) Driving behavior and likely crash causal factors to support improved countermeasures.

[(C) Reducing highway congestion due to nonrecurring congestion.

[(D) Planning and designing new road capacity to meet mobility, economic, environmental, and community needs.

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[(2) DISSEMINATION OF RESULTS.—The research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers for their use, as soon as practicable.

[(d) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

[(1) projects and researchers are selected to conduct research for the program on the basis of merit and open solicitation of proposals and review by panels of appropriate experts;

[(2) State department of transportation officials and other stakeholders, as appropriate, are involved in the governance of the program at the overall program level and technical level through the use of expert panels and committees;

[(3) the Council acquires a qualified, permanent core staff with the ability and expertise to manage the program and multiyear budget; and

[(4) there is no duplication of research effort between the program and any other research effort of the Department.

[(e) REPORT ON IMPLEMENTATION OF RESULTS.—

[(1) REPORT.—The Transportation Research Board of the National Research Council shall complete a report on the strategies and administrative structure to be used for implementation of the results of the future strategic highway research program.

[(2) COMPONENTS.—The report under paragraph (1) shall include with respect to the program—

[(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

[(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

[(C) an estimate of costs of implementation of those results; and

[(D) recommendations on methods by which implementation of those results should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those recommendations.

[(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

[(A) the Federal Highway Administration;

[(B) the National Highway Traffic Safety Administration; and

[(C) the American Association of State Highway and Transportation Officials.

[(4) SUBMISSION.—Not later than February 1, 2009, the report shall be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

[(f) FUNDING.—

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[(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using amounts made available under a grant or cooperative agreement under this section shall be 100 percent, and such funds shall remain available until expended.

[(2) ADVANCE PAYMENTS.—The Secretary may make advance payments as necessary to carry out the program under this section.

[(g) LIMITATION OF REMEDIES.—

[(1) SAME REMEDY AS IF UNITED STATES.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for injury, loss of property, personal injury, or death shall apply to any claim against the National Academy of Sciences for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission by employees and individuals described in paragraph (3) arising from activities conducted under or in connection with this section. Any such claim shall be subject to the limitations and exceptions which would be applicable to such claim if such claim were against the United States. With respect to any such claim, the Secretary shall be treated as the head of the appropriate Federal agency for purposes of sections 2672 and 2675 of title 28.

[(2) EXCLUSIVENESS OF REMEDY.—The remedy referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining liability arising from any such act or omission without regard to when the act or omission occurred.

[(3) TREATMENT.—Employees of the National Academy of Sciences and other individuals appointed by the president of the National Academy of Sciences and acting on its behalf in connection with activities carried out under this section shall be treated as if they are employees of the Federal Government under section 2671 of title 28 for purposes of a civil action or proceeding with respect to a claim described in paragraph (1). The civil action or proceeding shall proceed in the same manner as any proceeding under chapter 171 of title 28 or action against the United States filed pursuant to section 1346(b) of title 28 and shall be subject to the limitations and exceptions applicable to such a proceeding or action.

[(4) SOURCES OF PAYMENTS.—Payment of any award, compromise, or settlement of a civil action or proceeding with respect to a claim described in paragraph (1) shall be paid first out of insurance maintained by the National Academy of Sciences, second from funds made available to carry out this section, and then from sums made available under section 1304 of title 31. For purposes of such section, such an award, compromise, or settlement shall be deemed to be a judgment, award, or settlement payable under section 2414 or 2672 of title 28. The Secretary may establish a reserve of funds to carry out this section for making payments under this paragraph.

[(h) IMPLEMENTATION.—Notwithstanding any other provision of this section, the Secretary may use funds made available to carry out this section for implementation of research products re-

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lated to the future strategic highway research program, including development, demonstration, evaluation, and technology transfer activities.]

\* \* \* \* \*

**§ 512. National [ITS] intelligent transportation systems program plan**

(a) IN GENERAL.—

(1) UPDATES.—Not later than 1 year after the date of enactment of the [SAFETEA-LU] *American Energy and Infrastructure Jobs Act of 2012*, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National Intelligent Transportation System (in this section referred to as “ITS”) program plan.

\* \* \* \* \*

**§ 513. Use of funds for [ITS] intelligent transportation systems activities**

(a) IN GENERAL.—For each fiscal year, not more than \$250,000 of the funds made available to carry out this [subtitle C of title V of the SAFETEA-LU] *section 7001(a)(4) of the American Energy and Infrastructure Jobs Act of 2012* shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

\* \* \* \* \*

**§ 514. Intelligent transportation systems program goals and purposes**

(a) GOALS.—The goals of the intelligent transportation system program include—

(1) *enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;*

(2) *achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;*

(3) *protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;*

(4) *accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, and bicycles and pedestrians, including individuals with disabilities; and*

(5) improvement of the Nation's ability to respond to emergencies and natural disasters.

(b) *PURPOSES.*—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) promote the innovative use of private resources;

(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

(8) provide continuing support for operations and maintenance of intelligent transportation systems.

**§ 515. Intelligent transportation systems program general authority and requirements**

(a) *SCOPE.*—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

(b) *POLICY.*—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

(c) *COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.*—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, private sector firms in the United States, Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

(d) *CONSULTATION WITH FEDERAL OFFICIALS.*—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

(e) *TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.*—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

(f) *TRANSPORTATION PLANNING.*—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation

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systems, within metropolitan and statewide transportation planning processes.

(g) **INFORMATION CLEARINGHOUSE.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this chapter; and

(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) **AGREEMENT.**—

(A) **IN GENERAL.**—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

(B) **FEDERAL FINANCIAL ASSISTANCE.**—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

(3) **AVAILABILITY OF INFORMATION.**—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

(h) **INFRASTRUCTURE DEVELOPMENT.**—Funds made available to carry out this chapter for operational tests—

(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

**§ 516. Intelligent transportation systems research and development**

(a) **IN GENERAL.**—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this chapter.

(b) **PRIORITY AREAS.**—Under the program, the Secretary shall give higher priority to funding projects that—

(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

(6) enhance safety through improved crash avoidance and protection, crash and other emergency personnel notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

**§517. Intelligent transportation systems national architecture and standards**

(a) **IN GENERAL.**—

(1) **DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.**—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

(2) **INTEROPERABILITY AND EFFICIENCY.**—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

(3) **USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.**—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

(b) **PROVISIONAL STANDARDS.**—

(1) **IN GENERAL.**—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.

(2) **PERIOD OF EFFECTIVENESS.**—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

(c) **CONFORMITY WITH NATIONAL ARCHITECTURE.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this chapter, to deploy intelligent transportation system technologies conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

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(2) *SECRETARY'S DISCRETION.*—The Secretary may authorize exceptions to paragraph (1) for—

(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508; or

(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of the SAFETEA-LU if the Secretary determines that the upgrade or expansion—

(i) would not adversely affect the goals or purposes of this chapter;

(ii) is carried out before the end of the useful life of such system; and

(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

(3) *EXCEPTIONS.*—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of the SAFETEA-LU.

(d) *STANDARD DEFINED.*—The term “standard” means a document that—

(1) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

(2) may support the national architecture and promote—

(A) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

(B) interoperability among intelligent transportation system technologies implemented throughout the States.

\* \* \* \* \*

**CHAPTER 6—INFRASTRUCTURE FINANCE**

Sec.

601. Generally applicable provisions.

[602. Determination of eligibility and project selection.]

602. Project applications and determinations of eligibility.

\* \* \* \* \*

611. State infrastructure bank capitalization.

**§ 601. Generally applicable provisions**

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

(1) *ELIGIBLE PROJECT COSTS.*—The term “eligible project costs” means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost (regardless of when incurred) of—

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(A) \* \* \*

\* \* \* \* \*

(2) CONTINGENT COMMITMENT.—The term “contingent commitment” means a commitment to obligate an amount from future available budget authority, but is not an obligation of the Federal Government.

[(2)] (3) FEDERAL CREDIT INSTRUMENT.—The term “Federal credit instrument” means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

[(3)] (4) INVESTMENT-GRADE RATING.—The term “investment-grade rating” means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

[(4)] (5) LENDER.—The term “lender” means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) \* \* \*

\* \* \* \* \*

[(5)] (6) LINE OF CREDIT.—The term “line of credit” means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

[(6)] (7) LOAN GUARANTEE.—The term “loan guarantee” means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(8) MASTER CREDIT AGREEMENT.—The term “master credit agreement” means an agreement entered into by and between the Secretary and an obligor for a project that—

(A) makes contingent commitments of one or more secured loans or other Federal credit instruments at future dates, subject to the provision of future budget authority;

(B) establishes the amounts and general terms and conditions of such secured loans or other Federal credit instruments;

(C) identifies the dedicated revenue sources that will secure the repayment of such secured loans or other Federal credit instruments, which may differ by project; and

(D) provides for the obligation of funds for such a secured loan or other Federal credit instrument, subject to the provision of future budget authority, for a project included in the agreement after all requirements under this section have been met for the project.

[(7)] (9) OBLIGOR.—The term “obligor” means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, limited liability company, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

[(8)] (10) PROJECT.—The term “project” means—

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(A) \* \* \*

\* \* \* \* \*

(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; [and]

(D) a project that—

(i) \* \* \*

\* \* \* \* \*

(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port[.];

(E) a program of related transportation projects that—

(i) are coordinated to achieve a common transportation goal;

(ii) are eligible for funding under this title or chapter 53 of title 49; and

(iii) together receive not more than 30 percent of their funding for capital costs from Federal grant funds made available under this title or chapter 53 of title 49; and

(F) a highway, transit, or pedestrian project, or grouping of projects, that—

(i) improves mobility; and

(ii) is located within the station area of a transit, passenger rail, or intercity bus station.

[(9)] (11) PROJECT OBLIGATION.—The term “project obligation” means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

[(10)] (12) RATING AGENCY.—The term “rating agency” means a credit rating agency registered with the Securities and Exchange Commission as a nationally recognized statistical rating organization, as that term is defined in section 3(a) of the Securities Exchange Act of 1934.

(13) RURAL INFRASTRUCTURE PROJECT.—The term “rural infrastructure project” means a surface transportation infrastructure project located in any area other than an urbanized area that has a population of greater than 250,000 inhabitants.

[(11)] (14) SECURED LOAN.—The term “secured loan” means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

[(12)] (15) STATE.—The term “State” has the meaning given the term in section 101.

[(13)] (16) SUBSIDY AMOUNT.—The term “subsidy amount” means the amount of budget authority, or other source of funds provided pursuant to section 608(c)(2), sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on

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governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

[(14)] (17) SUBSTANTIAL COMPLETION.—The term “substantial completion” means the opening of a project to vehicular or passenger traffic.

\* \* \* \* \*

### 【§ 602. Determination of eligibility and project selection

[(a) ELIGIBILITY.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

[(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

[(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application to the Secretary.

[(3) ELIGIBLE PROJECT COSTS.—

[(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

[(i) \$50,000,000; or

[(ii) 33½ percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

[(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed \$15,000,000.

[(4) DEDICATED REVENUE SOURCES.—The Federal credit instrument shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the project obligations.

[(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

[(b) SELECTION AMONG ELIGIBLE PROJECTS.—

[(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility requirements specified in subsection (a).

[(2) SELECTION CRITERIA.—

[(A) IN GENERAL.—The selection criteria shall include the following:

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[(i) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

[(ii) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment.

[(iii) The extent to which assistance under this chapter would foster innovative public-private partnerships and attract private debt or equity investment.

[(iv) The likelihood that assistance under this chapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

[(v) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

[(vi) The amount of budget authority required to fund the Federal credit instrument made available under this chapter.

[(vii) The extent to which the project helps maintain or protect the environment.

[(viii) The extent to which assistance under this chapter and chapter 1 would reduce the contribution of Federal grant assistance to the project.

[(B) PRELIMINARY RATING OPINION LETTER.—For purposes of subparagraph (A)(ii), the Secretary shall require each project applicant to provide a preliminary rating opinion letter from at least 1 rating agency indicating that the project's senior obligations, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating.

[(c) FEDERAL REQUIREMENTS.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for transit projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

[(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

[(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).]

### **§ 602. Project applications and determinations of eligibility**

(a) PROJECT APPLICATIONS.—

(1) IN GENERAL.—*A State, local government, agency or instrumentality of a State or local government, public authority, private party to a public-private partnership, or any other legal entity undertaking a project may submit to the Secretary an application requesting financial assistance under this chapter for the project.*

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(2) **MASTER CREDIT AGREEMENTS.**—An application submitted under paragraph (1) may request that financial assistance under this chapter be provided under a master credit agreement.

(3) **APPLICATIONS WHERE OBLIGOR WILL BE IDENTIFIED LATER.**—A State, local government, agency or instrumentality of a State or local government, or public authority may submit an application to the Secretary under paragraph (1) under which a private party to a public-private partnership will be the obligor and will be identified later through completion of a procurement and selection of the private party.

(b) **ELIGIBILITY.**—

(1) **APPROVAL.**—The Secretary shall approve an application submitted under subsection (a)(1) for each project that meets the criteria specified in paragraph (2).

(2) **CRITERIA.**—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

(A) **INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.**—The project shall satisfy the applicable planning and programmatic requirements of sections 5203 and 5204 of title 49—

(i) in the case of an application for financial assistance to be provided under a master credit agreement, at such time as credit assistance is provided for the project pursuant to the master credit agreement; and

(ii) in the case of any other project application, at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

(B) **CREDITWORTHINESS.**—

(i) **IN GENERAL.**—The project shall satisfy applicable creditworthiness standards, including, at a minimum—

(I) a rate covenant, if applicable;

(II) adequate coverage requirements to ensure repayment;

(III) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

(IV) a rating from at least 2 rating agencies on the Federal credit instrument.

(ii) **AMOUNTS LESS THAN \$75,000,000.**—Notwithstanding clauses (i)(III) and (i)(IV), if the senior debt and Federal credit instrument is for an amount less than \$75,000,000, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

(iii) **FEDERAL CREDIT INSTRUMENTS THAT ARE THE SENIOR DEBT.**—Notwithstanding clauses (i)(III) and (i)(IV), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least 2 rating agencies.

(C) **ELIGIBLE PROJECT COSTS.**—The eligible costs of the project—

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(i) in the case of a project described in section 601(a)(9)(F) or a project principally involving the installation of an intelligent transportation system, shall be reasonably anticipated to equal or exceed \$15,000,000;

(ii) in the case of a project for which financial assistance will be provided under a master credit agreement, shall be reasonably anticipated to equal or exceed \$1,000,000,000;

(iii) in the case of a rural infrastructure project, shall be reasonably anticipated to equal or exceed \$25,000,000; and

(iv) in the case of any other project, shall be reasonably anticipated to equal or exceed the lesser of—

(I) \$50,000,000; or

(II) 33<sup>1</sup>/<sub>3</sub> percent of the amount apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to the State in which the project is located for Federal-aid highway and highway safety construction programs for the most recently completed fiscal year.

(D) DEDICATED REVENUE SOURCES.—The Federal credit instrument for the project shall be repayable, in whole or in part, from tolls, user fees, payments owing to the obligor under a public-private partnership, or other dedicated revenue sources that also secure or fund the project obligations.

(E) REGIONAL SIGNIFICANCE.—The project shall be regionally significant (as defined in regulations implementing sections 134 and 135 (as in effect on the day before the date of enactment of the American Energy and Infrastructure Jobs Act of 2012)) or otherwise significantly enhance the national transportation system.

(F) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project undertaken by an entity that is not a State or local government (or an agency or instrumentality of a State or local government), the project shall be publicly sponsored as provided under subsection (a).

(G) BENEFICIAL EFFECTS.—The Secretary shall determine that financial assistance for the project under this chapter will—

(i) foster an innovative public-private partnership and attract private debt or equity investment for the project;

(ii) enable the project to proceed at an earlier date than the project would otherwise be able to proceed or reduce the project's life cycle costs, including debt service costs; and

(iii) reduce the contribution of Federal grant assistance for the project.

(H) PROJECT READINESS.—The applicant shall demonstrate that the contracting process for construction of the project can be commenced not later than 90 days after the

date on which a Federal credit instrument is secured for the project under this chapter.

(c) **PRELIMINARY RATING OPINION LETTER.**—For purposes of subsection (b)(2)(B), the Secretary shall require each applicant for a project to provide a preliminary rating opinion letter from at least 1 rating agency indicating that the project's senior obligations, which may consist, in whole or in part, of the Federal credit instrument, have the potential to achieve an investment-grade rating.

(d) **APPROVAL OF APPLICATIONS AND FUNDING.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) approve applications for projects that meet the criteria specified in subsection (b)(2) in the order in which the Secretary receives the applications; and

(B) commit or conditionally commit budget authority for projects, out of amounts made available to carry out this chapter for a fiscal year, in the order in which the Secretary approves the applications for such projects.

(2) **INSUFFICIENT FUNDS.**—If the Secretary approves an application submitted under subsection (a)(1) for a project in a fiscal year, but is unable to provide financial assistance for the project in that fiscal year as a result of prior commitments or conditional commitments of budget authority under this chapter, the Secretary shall provide the project sponsor with the option of receiving such financial assistance as soon as sufficient budget authority is made available to carry out this chapter in a subsequent fiscal year.

(e) **PROCEDURES FOR DETERMINING PROJECT ELIGIBILITY.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish procedures for—

(A) processing applications received under subsection (a)(1) requesting financial assistance for projects; and

(B) approving or disapproving the applications based on whether the projects meet the criteria specified in subsection (b)(2).

(2) **APPLICATION PROCESSING PROCEDURES.**—The procedures shall meet the following requirements:

(A) The procedures may not restrict when applications may be filed.

(B) The procedures shall ensure that—

(i) the Secretary will provide written notice to an applicant, on or before the 15th day following the date of receipt of the applicant's application, informing the applicant of whether the application is complete;

(ii) if the application is complete, the Secretary will provide written notice to the applicant, on or before the 60th day following the date of issuance of written notice for the application under clause (i), informing the applicant of whether the Secretary has approved or disapproved the application;

(iii) if the application is not complete, the Secretary will provide written notice to the applicant, together with the written notice issued for the application under clause (i), informing the applicant of the information and materials needed to complete the application; and

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(iv) if the Secretary does not provide written notice to an applicant under clause (i) in the 15-day period specified in clause (i)—

(I) the applicant's application is deemed complete; and

(II) the Secretary will provide written notice to the applicant, on or before the 60th day following the last day of such 15-day period, informing the applicant of whether the Secretary has approved or disapproved the application.

(C) The procedures may not use eligibility criteria that are supplemental to those established by this chapter.

(D) In accordance with subsection (b)(1), the procedures shall require approval of an application if the project meets the eligibility criteria specified in subsection (b)(2).

(E) The procedures shall require that any written notice of disapproval of an application identify the eligibility criteria that were not satisfied and contain an explanation of the deficiencies that resulted in failure to meet such criteria.

(3) **SPECIAL RULES FOR MASTER CREDIT AGREEMENTS.**—The Secretary shall issue special rules for—

(A) processing applications under which financial assistance will be provided under a master credit agreement; and

(B) approving or disapproving such applications based on whether the proposed project or program of related projects meets the applicable eligibility criteria specified in section 601(a)(7).

(f) **APPLICATION APPROVAL.**—Approval of an application for a project under subsection (a)(1) qualifies the project for execution of a conditional term sheet establishing a conditional commitment of credit assistance.

(g) **FEDERAL REQUIREMENTS.**—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for public transportation projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(h) **DEVELOPMENT PHASE ACTIVITIES.**—Any credit instrument secured under this chapter may be used to finance 100 percent of the cost of development phase activities as described in section 601(a)(1)(A) if the total amount of the credit instrument does not exceed the maximum amount for such instrument prescribed in this chapter.

### § 603. Secured loans

(a) **IN GENERAL.**—

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(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements, *including master credit agreements*, with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs of any project [selected] *approved* under section 602; or

(B) to refinance interim construction financing of eligible project costs of any project [selected] *approved* under section 602; or

(C) to refinance long-term project obligations or Federal credit instruments if such refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

(i) is [selected] *approved* under section 602; or

\* \* \* \* \*

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section [602(b)(2)(B)] *602(c)*, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account such letter.

\* \* \* \* \*

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as *are consistent with this chapter and its purpose and that* the Secretary determines appropriate.

[(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of 33 percent of the reasonably anticipated eligible project costs or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations.]

(2) MAXIMUM AMOUNTS.—*The amount of the secured loan may not exceed 49 percent of the reasonably anticipated eligible project costs.*

(3) PAYMENT.—The secured loan—

(A) shall—

(i) be payable, in whole or in part, from tolls, user fees, *payments owing to the obligor under a public-private partnership*, or other dedicated revenue sources that also secure the senior project obligations; and

\* \* \* \* \*

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations *entered into after the date on which the agreement to provide the secured loan is entered into under this section (except that such obligations do not include project obligations issued to refund prior project obligations or project obligations not con-*

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*templated by the parties at the time) in the event of bankruptcy, insolvency, or liquidation of the obligor.*

\* \* \* \* \*

**§ 604. Lines of credit**

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project [selected] approved under section 602.

\* \* \* \* \*

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section [602(b)(2)(B)] 602(c), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account such letter.

\* \* \* \* \*

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as are consistent with this chapter and its purpose and that the Secretary determines appropriate.

[(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.]

(2) MAXIMUM AMOUNTS.—The total amount of the line of credit may not exceed 49 percent of the reasonably anticipated eligible project costs.

\* \* \* \* \*

(5) SECURITY.—The line of credit—

(A) shall—

(i) be payable, in whole or in part, from tolls, user fees, payments owing to the obligor under a public-private partnership, or other dedicated revenue sources that also secure the senior project obligations; and

\* \* \* \* \*

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations entered into after the date on which the agreement to provide the direct loan is entered into under this section (except that such obligations do not include project obligations issued to refund prior project obligations or project obligations not contemplated by the parties at the time) in the event of bankruptcy, insolvency, or liquidation of the obligor.

\* \* \* \* \*

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(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section also shall not receive a secured loan or loan guarantee under section 603 of an amount that, combined with the amount of the line of credit, exceeds [33 percent] 49 percent of eligible project costs.

\* \* \* \* \*

§ 605. Program administration

(a) \* \* \*

\* \* \* \* \*

(e) EXPEDITED PROCESSING.—The Secretary shall implement procedures and measures to economize the time and cost involved in obtaining approval and the issuance of credit assistance under this chapter.

\* \* \* \* \*

§ 608. Funding

(a) 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 chapter \$122,000,000 for each of fiscal years 2005 through 2009.]

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Alternative Transportation Account) to carry out this chapter \$1,000,000,000 for each of fiscal years 2013 through 2016.

\* \* \* \* \*

(3) ADMINISTRATIVE COSTS.—From funds made available to carry out this chapter, the Secretary may use, for the administration of this chapter, not more than [\$2,200,000 for each of fiscal years 2005 through 2009] \$3,250,000 for each of fiscal years 2013 through 2016.

(4) PROJECTS UNDER A MASTER CREDIT AGREEMENT.—The Secretary may commit or conditionally commit to projects covered by master credit agreements not more than 15 percent of the amount of budget authority for each fiscal year under paragraph (1). This limitation does not apply to a project under a master credit agreement that has received final credit approval.

\* \* \* \* \*

(c) EXHAUSTION OF AVAILABILITY.—

(1) NOTICE OF EXHAUSTION.—Whenever the Secretary fully commits budget authority available in a fiscal year under subparagraph (a)(1), the Secretary shall—

(A) publish notice of that fact in the Federal Register; and

(B) deliver written notice of that fact to the applicants under all approved and pending applications.

(2) ELECTION TO USE OTHER SOURCES FOR SUBSIDY AMOUNT.—An applicant may elect in its application or at any time after receipt of such notice to pay the subsidy amount from

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available sources other than the budget authority available in a fiscal year under subparagraph (a)(1), including from Federal assistance available to the applicant under this title or chapter 53 of title 49.

(d) USE OF UNALLOCATED FUNDS.—

(1) DISTRIBUTION AMONG STATES.—On September 1 of each fiscal year, the Secretary shall distribute any remaining budget authority made available in subsection (a)(1) among the States in the ratio that—

(A) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to each State for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year; bears to

(B) the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to all States for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year.

(2) ELIGIBLE PURPOSES.—Such budget authority shall be available for any purpose eligible for funding under section 133.

\* \* \* \* \*

§ 610. State infrastructure bank program

(a) \* \* \*

\* \* \* \* \*

(d) FUNDING.—

(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—

(A) [10 percent] 15 percent of the funds apportioned to the State for each of [fiscal years 2005 through 2009] fiscal years 2013 through 2016 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; [and]

(B) [10 percent] 15 percent of the funds allocated to the State for each of such fiscal years under section 105[.1]; and

(C) 100 percent of the funds apportioned to the State for each of fiscal years 2013 through 2016 under section 611.

(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed [10 percent] 15 percent of the funds made available to the State or other recipient in each of [fiscal years 2005 through 2009] fiscal years 2013 through 2016 for capital projects under each of such sections.

(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of [fiscal years 2005 through 2009] *fiscal years 2013 through 2016* for capital projects under such subtitle.

\* \* \* \* \*

(k) PROGRAM ADMINISTRATION.—For each of [fiscal years 2005 through 2009] *fiscal years 2013 through 2016*, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

**§ 611. State infrastructure bank capitalization**

(a) APPORTIONMENT OF FUNDS.—*On October 1 of each fiscal year, the Secretary shall apportion amounts made available to carry out this section for a fiscal year among the States in the ratio that—*

(1) *the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to each State for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year; bears to*

(2) *the amount authorized to be apportioned, out of amounts made available from the Highway Trust Fund (other than the Alternative Transportation Account), to all States for the National Highway System program, the surface transportation program, and highway safety improvement program for the fiscal year.*

(b) ELIGIBLE USES OF FUNDING.—

(1) IN GENERAL.—*Except as provided in paragraph (2), funds apportioned to a State under subsection (a) shall be used by the State to make capitalization grants to the highway account of the State's infrastructure bank established under section 610.*

(2) FISCAL YEARS 2013 AND 2014.—*Funds apportioned to a State under subsection (a) for fiscal years 2013 and 2014 may be used by the State for eligible projects on the National Highway System, as described in section 119(d).*

(c) REAPPORTIONMENT OF FUNDS.—*For fiscal year 2015 and each fiscal year thereafter, if by August 1 of the fiscal year a State does not obligate the funds apportioned to the State for the fiscal year under subsection (a) for providing capitalization grants described in subsection (b), the Secretary shall reapportion the remaining funds among those States that—*

(1) *did obligate before such date all of the funds apportioned to the State for the fiscal year under subsection (a); and*

(2) *certify to the Secretary that the State will use the additional funds to make capitalization grants described in subsection (b) before the end of the fiscal year.*

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(d) *LIMITATION.*—Any reapportionment of funds pursuant to subsection (d) shall not require a recalculation of percentages under section 105.

(e) *APPLICABILITY OF FEDERAL LAW.*—The requirements referred to in section 610(h) shall apply to any funds apportioned under this section.

(f) *FUNDING.*—

(1) *IN GENERAL.*—There is authorized to be appropriated out of the Highway Trust Fund (other than the Alternative Transportation Account) to carry out this section \$750,000,000 for each of fiscal years 2013 through 2016.

(2) *CONTRACT AUTHORITY.*—Funds made available under paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

**SAFETEA-LU**

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

(a) [23 U.S.C. 101 note] **SHORT TITLE.**—This Act may be cited as the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” or “SAFETEA-LU”.

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

Sec. 1. Short title; table of contents.

*	*	*	*	*	*	*
<b>TITLE I—FEDERAL-AID HIGHWAYS</b>						
<b>Subtitle A—Authorization of Programs</b>						
*	*	*	*	*	*	*
[Sec. 1117.	Transportation, community, and system preservation program.]					
*	*	*	*	*	*	*
<b>Subtitle C—Mobility and Efficiency</b>						
[Sec. 1301.	Projects of national and regional significance.					
[Sec. 1302.	National corridor infrastructure improvement program.]					
*	*	*	*	*	*	*
[Sec. 1305.	Truck parking facilities.					
[Sec. 1306.	Freight intermodal distribution pilot grant program.					
[Sec. 1307.	Deployment of magnetic levitation transportation projects.					
[Sec. 1308.	Delta region transportation development program.]					
*	*	*	*	*	*	*
<b>Subtitle D—Highway Safety</b>						
*	*	*	*	*	*	*
[Sec. 1404.	Safe routes to school program.]					
*	*	*	*	*	*	*
[Sec. 1410.	National Work Zone Safety Information Clearinghouse.]					
<b>Subtitle E—Construction and Contract Efficiency</b>						
*	*	*	*	*	*	*
[Sec. 1502.	Highways for LIFE pilot program.]					
*	*	*	*	*	*	*
<b>Subtitle H—Environment</b>						
*	*	*	*	*	*	*

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- [Sec. 1803. America's Byways Resource Center.
- [Sec. 1804. National historic covered bridge preservation.]
- \* \* \* \* \*
- [Sec. 1807. Nonmotorized transportation pilot program.]
- \* \* \* \* \*

Subtitle I—Miscellaneous

- \* \* \* \* \*
- [Sec. 1906. Grant program to prohibit racial profiling.
- [Sec. 1907. Pavement marking systems demonstration projects.]
- \* \* \* \* \*
- [Sec. 1958. Limitation on project approval.]
- \* \* \* \* \*

TITLE II—HIGHWAY SAFETY

- \* \* \* \* \*
- [Sec. 2009. High visibility enforcement program.
- [Sec. 2010. Motorcyclist safety.
- [Sec. 2011. Child safety and child booster seat incentive grants.]
- \* \* \* \* \*
- [Sec. 2013. Drug-impaired driving enforcement.
- [Sec. 2014. First responder vehicle safety program.]
- \* \* \* \* \*
- [Sec. 2016. Rural State emergency medical services optimization pilot program.
- [Sec. 2017. Older driver safety; law enforcement training.]
- \* \* \* \* \*

TITLE III—PUBLIC TRANSPORTATION

- \* \* \* \* \*
- [Sec. 3045. National fuel cell bus technology development program.
- [Sec. 3046. Allocations for national research and technology programs.]
- \* \* \* \* \*

TITLE IV—MOTOR CARRIER SAFETY

Subtitle A—Commercial Motor Vehicle Safety

- \* \* \* \* \*
- [Sec. 4127. Outreach and education.
- [Sec. 4128. Safety data improvement program.]
- \* \* \* \* \*
- [Sec. 4134. Grant program for commercial motor vehicle operators.]
- \* \* \* \* \*

TITLE V—RESEARCH

Subtitle C—Intelligent Transportation System Research

- \* \* \* \* \*
- [Sec. 5303. Goals and purposes.
- [Sec. 5304. Infrastructure development.
- [Sec. 5305. General authorities and requirements.
- [Sec. 5306. Research and development.
- [Sec. 5307. National architecture and standards.
- [Sec. 5308. Road weather research and development program.
- [Sec. 5309. Centers for surface transportation excellence.
- [Sec. 5310. Definitions.]
- \* \* \* \* \*

Subtitle E—Other Programs

- [Sec. 5501. Transportation safety information management system project.]
- \* \* \* \* \*

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[Sec. 5506. Commercial remote sensing products and spatial information technologies.]

[Sec. 5507. Rural interstate corridor communications study.]

\* \* \* \* \*

[Sec. 5511. Motorcycle crash causation study grants.]

\* \* \* \* \*

[Sec. 5513. Research grants.]

\* \* \* \* \*

### TITLE I—FEDERAL-AID HIGHWAYS

#### Subtitle A—Authorization of Programs

\* \* \* \* \*

#### [SEC. 1117. TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.

[(a) ESTABLISHMENT.—In cooperation with appropriate State, tribal, regional, and local governments, the Secretary shall establish a comprehensive program to address the relationships among transportation, community, and system preservation plans and practices and identify private sector-based initiatives to improve such relationships.

[(b) PURPOSE.—Through the program under this section, the Secretary shall facilitate the planning, development, and implementation of strategies to integrate transportation, community, and system preservation plans and practices that address one or more of the following:

[(1) Improve the efficiency of the transportation system of the United States.

[(2) Reduce the impacts of transportation on the environment.

[(3) Reduce the need for costly future investments in public infrastructure.

[(4) Provide efficient access to jobs, services, and centers of trade.

[(5) Examine community development patterns and identify strategies to encourage private sector development that achieves the purposes identified in paragraphs (1) through (4).

[(c) GENERAL AUTHORITY.—The Secretary shall allocate funds made available to carry out this section to States, metropolitan planning organizations, local governments, and tribal governments to carry out eligible projects to integrate transportation, community, and system preservation plans and practices.

[(d) ELIGIBILITY.—A project described in subsection (c) is an eligible project under this section if the project—

[(1) is eligible for assistance under title 23 or chapter 53 of title 49, United States Code; or

[(2) is to conduct any other activity relating to transportation, community, and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement one or more of the following:

[(A) Transit-oriented development plans.

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[(B) Traffic calming measures.

[(C) Other coordinated transportation, community, and system preservation practices.

[(e) CRITERIA.—In allocating funds made available to carry out this section, the Secretary shall give priority consideration to applicants that—

[(1) have instituted preservation or development plans and programs that—

[(A) are coordinated with State and local preservation or development plans, including transit-oriented development plans;

[(B) promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

[(C) promote innovative private sector strategies;

[(2) have instituted other policies to integrate transportation, community, and system preservation practices, such as—

[(A) spending policies that direct funds to high-growth areas;

[(B) urban growth boundaries to guide metropolitan expansion;

[(C) “green corridors” programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

[(D) other similar programs or policies as determined by the Secretary;

[(3) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

[(4) demonstrate a commitment to public and private involvement, including the involvement of nontraditional partners in the project team; and

[(5) examine ways to encourage private sector investments that address the purposes of this section.

[(f) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this section, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

[(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 \$25,000,000 for fiscal year 2005 and \$61,250,000 for each of fiscal years 2006 through 2009.

[(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable, and the Federal share for projects and activities carried out with such funds shall be determined in accordance with section 120(b) of title 23, United States Code.]

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### Subtitle C—Mobility and Efficiency

#### [SEC. 1301. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.

[(a) FINDINGS.—Congress finds the following:

[(1) Under current law, surface transportation programs rely primarily on formula capital apportionments to States.

[(2) Despite the significant increase for surface transportation program funding in the Transportation Equity Act of the 21st Century, current levels of investment are insufficient to fund critical high-cost transportation infrastructure facilities that address critical national economic and transportation needs.

[(3) Critical high-cost transportation infrastructure facilities often include multiple levels of government, agencies, modes of transportation, and transportation goals and planning processes that are not easily addressed or funded within existing surface transportation program categories.

[(4) Projects of national and regional significance have national and regional benefits, including improving economic productivity by facilitating international trade, relieving congestion, and improving transportation safety by facilitating passenger and freight movement.

[(5) The benefits of projects described in paragraph (4) accrue to local areas, States, and the Nation as a result of the effect such projects have on the national transportation system.

[(6) A program dedicated to constructing projects of national and regional significance is necessary to improve the safe, secure, and efficient movement of people and goods throughout the United States and improve the health and welfare of the national economy.

[(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide grants to States for projects of national and regional significance.

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

[(1) ELIGIBLE PROJECT COSTS.—The term “eligible project costs” means the costs of—

[(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and

[(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

[(2) ELIGIBLE PROJECT.—The term “eligible project” means any surface transportation project eligible for Federal assistance under title 23, United States Code, including freight railroad projects and activities eligible under such title.

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

[(d) ELIGIBILITY.—To be eligible for assistance under this section, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

[(1) \$500,000,000; or

[(2) 75 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

[(e) APPLICATIONS.—Each State seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.

[(f) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—

[(1) IN GENERAL.—The Secretary shall—

[(A) establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (d);

[(B) conduct a national solicitation for applications; and

[(C) award grants on a competitive basis.

[(2) CRITERIA FOR GRANTS.—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—

[(A) is based on the results of preliminary engineering;

[(B) is justified based on the ability of the project—

[(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;

[(ii) to reduce congestion, including impacts in the State, region, and Nation;

[(iii) to improve transportation safety, including reducing transportation accidents, injuries, and fatalities;

[(iv) to otherwise enhance the national transportation system; and

[(v) to garner support for non-Federal financial commitments and provide evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility; and

[(C) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.

[(3) SELECTION CONSIDERATIONS.—In selecting a project under this section, the Secretary shall consider the extent to which the project—

[(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;

[(B) uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project; and

[(C) helps maintain or protect the environment.

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[(4) PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of preliminary engineering for the project.

[(5) NON-FEDERAL FINANCIAL COMMITMENT.—

[(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

[(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and

[(ii) each proposed non-Federal source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

[(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of non-Federal financing under subparagraph (A), the Secretary shall consider—

[(i) existing financial commitments;

[(ii) the degree to which financing sources are dedicated to the purposes proposed;

[(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and

[(iv) the extent to which the project has a non-Federal financial commitment that exceeds the required non-Federal share of the cost of the project.

[(6) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of preliminary engineering, project justification, and the degree of non-Federal financial commitment, as required under this subsection.

[(7) PROJECT EVALUATION AND RATING.—

[(A) IN GENERAL.—A proposed project may advance from preliminary engineering to final design and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements.

[(B) EVALUATION AND RATING.—In making such findings, the Secretary shall evaluate and rate the project as “highly recommended”, “recommended”, or “not recommended” based on the results of preliminary engineering, the project justification criteria, and the degree of non-Federal financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (6).

[(g) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—

[(1) LETTER OF INTENT.—

[(A) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future

available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.

[(B) NOTIFICATION.—At least 60 days before issuing a letter under subparagraph (A) or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

[(C) NOT AN OBLIGATION.—The issuance of a letter is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.

[(D) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment may be made only when contract authority is allocated to a project.

[(2) FULL FUNDING GRANT AGREEMENT.—

[(A) IN GENERAL.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under subsection (f)(7).

[(B) TERMS.—If the Secretary makes a full funding grant agreement with an applicant, the agreement shall—

[(i) establish the terms of participation by the United States Government in a project under this section;

[(ii) establish the maximum amount of Government financial assistance for the project;

[(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and

[(iv) make timely and efficient management of the project easier according to the laws of the United States.

[(C) AGREEMENT.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that

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the applicant has shown reasonable diligence in seeking the most favorable financing terms.

[(3) AMOUNTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent and full funding grant agreements may be not more than the greater of the amount authorized to carry out this section or an amount equivalent to the last 2 fiscal years of funding authorized to carry out this section less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements may be not more than a limitation specified in law.

[(h) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant for a project under this section shall be subject to all of the requirements of title 23, United States Code.

[(2) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.

[(i) GOVERNMENT'S SHARE OF PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the cost of a project receiving assistance under this section. A grant for the project is for 80 percent of the project cost, unless the grant recipient requests a lower grant percentage. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

[(j) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (i) the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

[(k) REPORTS.—

[(1) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants under this section.

[(2) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph shall include evaluations and ratings, as required under subsection (f). The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10

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fiscal years based on information currently available to the Secretary.

[(1) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be as provided in this section.

[(m) DESIGNATED PROJECTS.—Notwithstanding any other provision of this section, the Secretary shall allocate for each of fiscal years 2005, 2006, 2007, 2008, and 2009, from funds made available to carry out this section, 10 percent, 20 percent, 25 percent, 25 percent, and 20 percent respectively, of the following amounts for grants to carry out the following projects under this section:

[No.	State	Project Description	Amount
1.	CA	Bakersfield Beltway System .....	\$140,000,000
2.	VA, WV, OH	Heartland Corridor Project including multiple intermodal facility improvements and improvements to facilitate the movement of intermodal freight from VA to OH .....	\$90,000,000
3.	CA	Roadway improvements in and around the former Norton Air Force Base as part of the Inland Empire Goods Movement Gateway project .....	\$55,000,000
4.	MI	\$7,400,000 for planning, design, and construction of a new American border plaza at the Blue Water Bridge in or near Port Huron; \$12,600,000 for integrated highway realignment and grade separations at Port Huron to eliminate road blockages from NAFTA rail traffic .....	\$20,000,000
5.	IL	Construction of O'Hare Bypass/Elgin O'Hare Extension .....	\$140,000,000
6.	WI	Reconstruction of the Marquette Interchange, Milwaukee WI .....	\$30,000,000
7.	IL	CREATE .....	\$100,000,000
8.	OR	I-5 Bridge repair, replacement and associated improvements in the I-5 corridor .....	\$160,000,000
9.	CA	Alameda Corridor East .....	\$125,000,000
10.	IL	Mississippi River Bridge and related roads .....	\$150,000,000
11.	CA	Transbay Terminal .....	\$27,000,000
12.	NY	Cross Harbor Freight Movement Project, New York .....	\$100,000,000
13.	WA	Alaska Way Viaduct and Seawall Replacement .....	\$100,000,000
14.	CA	Gerald Desmond/I-710 Gateway Project .....	\$100,000,000
15.	CO	Denver's Union Station .....	\$50,000,000
16.	MN	Union Depot Multimodal Transit Facility .....	\$50,000,000
17.	CA	Sacramento Intermodal Station .....	\$3,000,000
18.	NJ	Liberty Corridor .....	\$100,000,000
19.	NM	For purposes of construction and other related transportation improvements associated with the rail yard relocation in the vicinity of Santa Teresa .....	\$14,000,000

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[No.]	State	Project Description	Amount
20.	PA	Route 23/US 422 Interchange Modernization and Route 363/US 422 Interchange Improvement Project and U.S. 422 Widening, Montgomery County, PA .....	\$20,000,000
21.	PA	Route 28 Widening and improvements, Allegheny County, PA .....	\$15,000,000
22.	PA	Redesign and reconstruction of interchanges 298 and 299 of I-80 and accompanying improvements to any other public roads in the vicinity, Monroe County .....	\$15,000,000
23.	SC	I-73; Construction of I-73 from Myrtle Beach, SC to I-95, ending at the North Carolina State line .....	\$40,000,000
24.	VA	Rail Relocation to route 164/I-664 rail corridor, Portsmouth .....	\$15,000,000
25.	WA	Replacement of the Alaskan Way Viaduct and Seawall in Seattle .....	\$120,000,000

**[SEC. 1302. NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.**

[(a) IN GENERAL.—The Secretary shall establish and implement a program to make allocations to States for highway construction projects in corridors of national significance to promote economic growth and international or interregional trade pursuant to the selection factors provided in this section. A State must submit an application to the Secretary in order to receive an allocation under this section.

[(b) SELECTION PROCESS.—

[(1) PRIORITY.—In the selection process under this section, the Secretary shall give priority to projects in corridors that are a part of, or will be designated as part of, the Dwight D. Eisenhower National System of Interstate and Defense Highways after completion of the work described in the application received by the Secretary and to any project that will be completed within 5 years of the date of the allocation of funds for the project.

[(2) SELECTION FACTORS.—In making allocations under this section, the Secretary shall consider the following factors:

[(A) The extent to which the corridor provides a link between two existing segments of the Interstate System.

[(B) The extent to which the project will facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.

[(C) The extent to which commercial vehicle traffic in the corridor—

[(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (16 U.S.C. 4401 et seq.); and

[(ii) is projected to increase in the future.

[(D) The extent to which international truck-borne commodities move through the corridor.

[(E) The extent to which the project will make improvements to an existing segment of the Interstate System that will result in a decrease in congestion.

[(F) The reduction in commercial and other travel time through a major freight corridor expected as a result of the project.

[(G) The value of the cargo carried by commercial vehicle traffic in the corridor and the economic costs arising from congestion in the corridor.

[(H) The extent of leveraging of Federal funds provided to carry out this section, including—

[(i) use of innovative financing;

[(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

[(iii) combination with other sources of Federal, State, local, or private funding.

[(c) APPLICABILITY OF TITLE 23.—Funds made available by section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

[(d) STATE DEFINED.—In this section, the term “State” has the meaning such term has in section 101(a) of title 23, United States Code.

[(e) DESIGNATED PROJECTS.—The Secretary shall allocate for each of fiscal years 2005, 2006, 2007, 2008, and 2009, from funds made available to carry out this section, 10 percent, 20 percent, 25 percent, 25 percent, and 20 percent respectively, of the following amounts for grants to carry out the following projects under this section:

No.	State	Project Description	Amount
1.	TX, LA, AR, MS, TN, KY, IN	Planning, Design, and Construction of I-69 in TX, LA, AR, MS, TN, KY, and IN .....	\$50,000,000
2.	LA	Improvements to Louisiana Highway 1 between the Caminada Bridge and the intersection of LA Highway 1 and U.S. 90 .....	\$20,000,000
3.	MD	Planning, design, and construction of the Inter County Connector in Montgomery and Prince Georges County in Maryland .....	\$10,000,000
4.	CA	Centennial Corridor Loop in Bakersfield .....	\$330,000,000
5.	VA	Construction of dedicated truck lanes on additional capacity in I-81 in VA .....	\$100,000,000
6.	CA	Design, Planning and Construction of State Route 178 in Bakersfield .....	\$100,000,000
7.	CA	Widening of Rosedale Highway between SR 43 and SR 99 in Bakersfield and widening of SR 178 between SR 99 and D street in Bakersfield .....	\$60,000,000

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[No.]	State	Project Description	Amount
8.	LA	Construction of the 36 mile segment of I-49 in LA between the Arkansas State line and I-220 in Shreveport .....	\$150,000,000
9.	AR	Construction of an extension of I-530 from Pine Bluff, Arkansas to Wilmar, Arkansas to interstate specifications .....	\$40,000,000
10.	IL	Construction of the U.S. I-80 to I-88 North-South Connector in Illinois .....	\$152,000,000
11.	WI	Construction and reconstruction of the U.S. Highway 41 corridor between Milwaukee and Green Bay, Wisconsin .....	\$30,000,000
12.	IL	Construction of Route 34 Interchange and improvements in Illinois .....	\$55,000,000
13.	CA	Increase capacity on I-80 between Sacramento/Placer County Line and SR 65 .....	\$50,000,000
14.	AK	Planning, design, and construction of Knik Arm Bridge .....	\$30,000,000
15.	IA, IL	Planning, design, right-of-way acquisition and construction of the Interstate Route 74 bridge from Bettendorf, Iowa, to Moline, Illinois .....	\$15,000,000
16.	AR	Planning, design, and construction of the I-49/Bella Vista Bypass in Arkansas .....	\$20,000,000
17.	SC	Planning, design, and construction of the I-73 corridor of national significance in South Carolina .....	\$10,000,000
18.	CA	I-405 HOV lane .....	\$100,000,000
19.	AR	I-69 Corridor, including the Great River Bridge .....	\$75,000,000
20.	MN	Falls-to-Falls Corridor .....	\$50,000,000
21.	DC	Frederick Douglass Memorial Bridge .....	\$75,000,000
22.	CT	Pearl Harbor Memorial Bridge .....	\$35,000,000
23.	IN	Improvements to State Road 312, Hammond .....	\$10,000,000
24.	CA	State Route 4 East Upgrade .....	\$20,000,000
25.	LA	LA 1 Replacement .....	\$5,000,000
26.	AZ	State Route 85 Upgrade .....	\$3,000,000
27.	WV	I-73/I-74 Corridor .....	\$50,000,000
28.	LA	Construction of I-49 North from Shreveport, Louisiana to Arkansas State line (I-220 to AR Line) .....	\$27,500,000
29.	LA	Transportation improvements to I-49 South .....	\$27,500,000
30.	OK	Ports to Plain Corridor in Oklahoma .....	\$35,000,000
31.	TN	For design, ROW and construction of Interstate 69 .....	\$100,000,000
32.	CO	U.S. 287, Ports-to-Plains Corridor .....	\$3,000,000
33.	OK	State of Oklahoma I-44 from Riverside to Yale Avenue in Tulsa .....	\$110,000,000]

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**[SEC. 1305. TRUCK PARKING FACILITIES.**

**[(a) ESTABLISHMENT.—**In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System.

**[(b) ALLOCATION OF FUNDS.—**

[(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section among States, metropolitan planning organizations, and local governments.

[(2) APPLICATIONS.—To be eligible for an allocation under this section, a State (as defined in section 101(a) of title 23, United States Code), metropolitan planning organization, or local government shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

[(3) ELIGIBLE PROJECTS.—Funds allocated under this subsection shall be used by the recipient for projects described in an application approved by the Secretary. Such projects shall serve the National Highway System and may include the following:

[(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

[(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

[(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

[(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

[(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

[(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

[(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

[(4) PRIORITY.—In allocating funds made available to carry out this section, the Secretary shall give priority to applicants that—

[(A) demonstrate a severe shortage of commercial motor vehicle parking capacity in the corridor to be addressed;

[(B) have consulted with affected State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations; and

[(C) demonstrate that their proposed projects are likely to have positive effects on highway safety, traffic congestion, or air quality.

[(c) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot program.

[(d) FUNDING.—

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[(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 \$6,250,000 for each of fiscal years 2006 through 2009.

[(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with sections 120(b) and 120(c) of such title.

[(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

**[SEC. 1306. FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM.**

[(a) IN GENERAL.—The Secretary shall establish and implement a freight intermodal distribution pilot grant program.

[(b) PURPOSES.—The purposes of the program established under subsection (a) shall be for the Secretary to make grants to States—

[(1) to facilitate and support intermodal freight transportation initiatives at the State and local levels to relieve congestion and improve safety; and

[(2) to provide capital funding to address infrastructure and freight distribution needs at inland ports and intermodal freight facilities.

[(c) ELIGIBLE PROJECTS.—Projects for which grants may be made under this section shall help relieve congestion, improve transportation safety, facilitate international trade, and encourage public-private partnership and may include projects for the development and construction of intermodal freight distribution and transfer facilities at inland ports.

[(d) SELECTION PROCESS.—

[(1) APPLICATIONS.—A State (as defined in section 101(a) of title 23, United States Code) shall submit for approval by the Secretary an application for a grant under this section containing such information as the Secretary may require to receive such a grant.

[(2) PRIORITY.—In selecting projects for grants, the Secretary shall give priority to projects that will—

[(A) reduce congestion into and out of international ports located in the United States;

[(B) demonstrate ways to increase the likelihood that freight container movements involve freight containers carrying goods; and

[(C) establish or expand intermodal facilities that encourage the development of inland freight distribution centers.

[(3) DESIGNATED PROJECTS.—Subject to the provisions of this section, the Secretary shall allocate for each of fiscal years 2005 through 2009, from funds made available to carry out this

section, 20 percent of the following amounts for grants to carry out the following projects under this section:

[(A) Short-haul intermodal projects, Oregon, \$5,000,000.

[(B) The Georgia Port Authority, \$5,000,000.

[(C) The ports of Los Angeles and Long Beach, California, \$5,000,000.

[(D) Fairbanks, Alaska, \$5,000,000.

[(E) Charlotte Douglas International Airport Freight Intermodal Facility, North Carolina, \$5,000,000.

[(F) South Piedmont Freight Intermodal Center, North Carolina, \$5,000,000.

[(e) USE OF GRANT FUNDS.—Funds made available to a recipient of a grant under this section shall be used by the recipient for the project described in the application of the recipient approved by the Secretary.

[(f) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this section.

[(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 \$6,000,000 for each of fiscal years 2005 through 2009.

[(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

[(h) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects for which grants are made under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

**[SEC. 1307. DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.]**

[(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.

[(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) **STATE.**—The term “State” has the meaning such term has under section 101(a) of title 23, United States Code.

[(b) **IN GENERAL.**—

[(1) **ASSISTANCE FOR ELIGIBLE PROJECTS.**—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects authorized by this section.

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

[(3) **APPLICABILITY OF OTHER LAWS.**—Financial assistance made available under this section, and projects assisted with such assistance, shall be subject to section 5333(a) of title 49, United States Code.

[(c) **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;

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

[(3) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by one or more States.

[(d) **ALLOCATION.**—Of the amounts made available to carry out this section for a fiscal year, the Secretary shall allocate—

[(1) 50 percent to the Nevada department of transportation who shall cooperate with the California-Nevada Super Speed Train Commission for the MAGLEV project between Las Vegas and Primm, Nevada, as a segment of the high-speed MAGLEV system between Las Vegas, Nevada, and Anaheim, California; and

[(2) 50 percent for existing MAGLEV projects located east of the Mississippi River using such criteria as the Secretary deems appropriate.

[(e) **CONTRACT AUTHORITY.**—Funds authorized under section 1101(a)(18) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project to be carried out with such funds shall be 80 percent.

**[SEC. 1308. DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.**

[(a) **IN GENERAL.**—The Secretary shall carry out a program in the 8 States comprising the Delta Region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee) to—

[(1) support and encourage multistate transportation planning and corridor development;

[(2) provide for transportation project development;

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- [(3) facilitate transportation decisionmaking; and
- [(4) support transportation construction.
- [(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization in a Delta Region State may receive and administer funds provided under the program.
- [(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway planning, development, and construction projects.
- [(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.
- [(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—
  - [(1) whether the project is located—
    - [(A) in an area under the authority of the Delta Regional Authority; and
    - [(B) on a Federal-aid highway;
  - [(2) endorsement of the project by the State department of transportation; and
  - [(3) evidence of the ability of the recipient of funds provided under the program to complete the project.
- [(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—
  - [(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and
  - [(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—
    - [(A) increase the mobility of people and goods;
    - [(B) improve the safety of the transportation system with respect to catastrophic natural disasters or disasters caused by human activity; and
    - [(C) contribute to the economic vitality of the area in which the project is being carried out.
- [(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this subsection may be applied to the non-Federal share of the project required by section 120 of title 23, United States Code.
- [(h) 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 \$10,000,000 for each of fiscal years 2006 through 2009.
  - [(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended.]

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### Subtitle D—Highway Safety

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#### [SEC. 1404. SAFE ROUTES TO SCHOOL PROGRAM.

[(a) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and middle schools.

[(b) PURPOSES.—The purposes of the program shall be—

[(1) to enable and encourage children, including those with disabilities, to walk and bicycle to school;

[(2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and

[(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

[(c) APPORTIONMENT OF FUNDS.—

[(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), amounts made available to carry out this section for a fiscal year shall be apportioned among the States in the ratio that—

[(A) the total student enrollment in primary and middle schools in each State; bears to

[(B) the total student enrollment in primary and middle schools in all States.

[(2) MINIMUM APPORTIONMENT.—No State shall receive an apportionment under this section for a fiscal year of less than \$1,000,000.

[(3) SET-ASIDE FOR ADMINISTRATIVE EXPENSES.—Before apportioning under this subsection amounts made available to carry out this section for a fiscal year, the Secretary shall set aside not more than \$3,000,000 of such amounts for the administrative expenses of the Secretary in carrying out this subsection.

[(4) DETERMINATION OF STUDENT ENROLLMENTS.—Determinations under this subsection concerning student enrollments shall be made by the Secretary.

[(d) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State's department of transportation.

[(e) ELIGIBLE RECIPIENTS.—Amounts apportioned to a State under this section shall be used by the State to provide financial assistance to State, local, tribal, and regional agencies, including nonprofit organizations, that demonstrate an ability to meet the requirements of this section.

[(f) ELIGIBLE PROJECTS AND ACTIVITIES.—

[(1) INFRASTRUCTURE-RELATED PROJECTS.—

[(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic

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calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

[(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.

[(2) NONINFRASTRUCTURE-RELATED ACTIVITIES.—

[(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.

[(B) ALLOCATION.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a State under this section for a fiscal year shall be used for noninfrastructure-related activities under this subparagraph.

[(3) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State receiving an apportionment under this section for a fiscal year shall use a sufficient amount of the apportionment to fund a full-time position of coordinator of the State's safe routes to school program.

[(g) CLEARINGHOUSE.—

[(1) IN GENERAL.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools to—

[(A) operate a national safe routes to school clearinghouse;

[(B) develop information and educational programs on safe routes to school; and

[(C) provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs.

[(2) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (c)(3).

[(h) TASK FORCE.—

[(1) IN GENERAL.—The Secretary shall establish a national safe routes to school task force composed of leaders in health, transportation, and education, including representatives of appropriate Federal agencies, to study and develop a strategy for advancing safe routes to school programs nationwide.

[(2) REPORT.—Not later than March 31, 2006, the Secretary shall submit to Congress a report containing the results of the study conducted, and a description of the strategy developed, under paragraph (1) and information regarding the use

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of funds for infrastructure-related and noninfrastructure-related activities under paragraphs (1) and (2) of subsection (f).

[(3) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (c)(3).

[(i) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project or activity under this section shall be 100 percent.

[(j) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

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

[(1) IN THE VICINITY OF SCHOOLS.—The term “in the vicinity of schools” means, with respect to a school, the area within bicycling and walking distance of the school (approximately 2 miles).

[(2) PRIMARY AND MIDDLE SCHOOLS.—The term “primary and middle schools” means schools providing education from kindergarten through eighth grade.]

\* \* \* \* \*

SEC. 1409. WORK ZONE SAFETY GRANTS.

(a) \* \* \*

\* \* \* \* \*

(c) 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 \$5,000,000 for each of fiscal years 2006 through 2009.]

(1) IN GENERAL.—Funding for activities under this section may be made available as described in section 1716(a) of the American Energy and Infrastructure Jobs Act of 2012.

\* \* \* \* \*

[SEC. 1410. NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE.

[(a) GRANTS.—The Secretary shall make grants for fiscal years 2006 through 2009 to a national nonprofit foundation for the operation of the National Work Zone Safety Information Clearinghouse, authorized by section 358(b)(2) of Public Law 104–59, created for the purpose of assembling and disseminating, by electronic and other means, information relating to improvement of roadway work zone safety.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$1,000,000 for each of fiscal years 2006 through 2009.

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[(c) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.]

SEC. 1411. ROADWAY SAFETY.

(a) ROAD SAFETY.—

(1) \* \* \*

[(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.]

(2) FUNDING.—Funding for activities under this subsection may be made available as described in section 1716(a) of the American Energy and Infrastructure Jobs Act of 2012.

\* \* \* \* \*

[(b) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

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

[(A) to operate a national bicycle and pedestrian clearinghouse;

[(B) to develop information and educational programs; and

[(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

[(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) \$300,000 for fiscal year 2005 and \$500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.

[(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.]

\* \* \* \* \*

Subtitle E—Construction and Contract Efficiency

\* \* \* \* \*

[SEC. 1502. HIGHWAYS FOR LIFE PILOT PROGRAM.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—The Secretary shall establish and implement a pilot program to be known as the “Highways for LIFE Pilot Program”.

[(2) PURPOSE.—The purpose of the pilot program shall be to advance longer-lasting highways using innovative tech-

nologies and practices to accomplish the fast construction of efficient and safe highways and bridges.

[(3) OBJECTIVES.—Under the pilot program, the Secretary shall provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.

[(b) PROJECTS.—

[(1) APPLICATIONS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires. Each application shall contain a description of proposed projects to be carried by the State under the pilot program.

[(2) ELIGIBILITY.—A proposed project shall be eligible for assistance under the pilot program if the project—

[(A) constructs, reconstructs, or rehabilitates a route or connection on a Federal-aid highway eligible for assistance under chapter 1 of title 23, United States Code;

[(B) uses innovative technologies, manufacturing processes, financing, or contracting methods that improve safety, reduce congestion due to construction, and improve quality; and

[(C) meets additional criteria as determined by the Secretary.

[(3) PROJECT PROPOSAL.—A project proposal submitted under paragraph (1) shall contain—

[(A) an identification and description of the projects to be delivered;

[(B) a description of how the projects will result in improved safety, faster construction, reduced congestion due to construction, user satisfaction, and improved quality;

[(C) a description of the innovative technologies, manufacturing processes, financing, and contracting methods that will be used for the proposed projects; and

[(D) such other information as the Secretary may require.

[(4) SELECTION CRITERIA.—In selecting projects for approval under this section, the Secretary shall ensure that the projects provide an evaluation of a broad range of technologies in a wide variety of project types and shall give priority to the projects that—

[(A) address achieving the Highways for LIFE performance standards for quality, safety, and speed of construction;

[(B) deliver and deploy innovative technologies, manufacturing processes, financing, contracting practices, and performance measures that will demonstrate substantial improvements in safety, congestion, quality, and cost-effectiveness;

[(C) include innovation that will lead to change in the administration of the State's transportation program to

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more quickly construct long-lasting, high-quality, cost-effective projects that improve safety and reduce congestion;

[(D) are or will be ready for construction within 1 year of approval of the project proposal; and

[(E) meet such other criteria as the Secretary determines appropriate.

[(5) FINANCIAL ASSISTANCE.—

[(A) FUNDS FOR HIGHWAYS FOR LIFE PROJECTS.—Out of amounts made available to carry out this section for a fiscal year, the Secretary may allocate to a State up to 20 percent, but not more than \$5,000,000, of the total cost of a project approved under this section. Notwithstanding any other provision of law, funds allocated to a State under this subparagraph may be applied to the non-Federal share of the cost of construction of a project under title 23, United States Code.

[(B) USE OF APPORTIONED FUNDS.—A State may obligate not more than 10 percent of the amount apportioned to the State under one or more of paragraphs (1), (2), (3), and (4) of section 104(b) of title 23, United States Code, for a fiscal year for projects approved under this section.

[(C) INCREASED FEDERAL SHARE.—Notwithstanding sections 120 and 129 of title 23, United States Code, the Federal share payable on account of any project constructed with Federal funds allocated under this section, or apportioned under section 104(b) of such title, to a State under such title and approved under this section may amount to 100 percent of the cost of construction of such project.

[(D) LIMITATION ON STATUTORY CONSTRUCTION.—Except as provided in subparagraph (C), nothing in this subsection shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program and the location of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects approved under this subsection.

[(6) PROJECT SELECTIONS.—In the period of fiscal years 2005 through 2009, the Secretary, to the maximum extent possible, shall approve at least 1 project in each State for participation in the pilot program and for financial assistance under paragraph (5) if the State submits an application and the project meets the eligibility requirements and selection criteria under this subsection.

[(7) MAXIMUM NUMBER OF PROJECTS.—The maximum number of projects for which the Secretary may allocate funds under this subsection in a fiscal year is 15.

[(c) TECHNOLOGY PARTNERSHIPS.—

[(1) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements or other transactions to foster the development, improvement, and creation of innovative technologies and facilities to improve safety, enhance the speed

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of highway construction, and improve the quality and durability of highways.

[(2) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.

[(d) TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION.—

[(1) IN GENERAL.—The Secretary shall conduct a highways for life technology transfer program.

[(2) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that the information and technology used, developed, or deployed under this subsection is made available to the transportation community and the public.

[(e) STAKEHOLDER INPUT AND INVOLVEMENT.—The Secretary shall establish a process for stakeholder input and involvement in the development, implementation, and evaluation of the Highways for LIFE Pilot Program. The process may include participation by representatives of State departments of transportation and other interested persons.

[(f) PROJECT MONITORING AND EVALUATION.—The Secretary shall monitor and evaluate the effectiveness of any activity carried out under this section.

[(g) CONTRACT AUTHORITY.—Except as otherwise provided in this section, funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

[(h) STATE DEFINED.—In this section, the term “State” has the meaning such term has in section 101(a) of title 23, United States Code.]

\* \* \* \* \*

**Subtitle F—Finance**

\* \* \* \* \*

**SEC. 1604. TOLLING.**

(a) \* \* \*

[(b) EXPRESS LANES DEMONSTRATION PROGRAM.—

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

[(A) ELIGIBLE TOLL FACILITY.—The term “eligible toll facility” includes—

[(i) a facility in existence on the date of enactment of this Act that collects tolls;

[(ii) a facility in existence on the date of enactment of this Act that serves high occupancy vehicles;

[(iii) a facility modified or constructed after the date of enactment of this Act to create additional tolled lane capacity (including a facility constructed by a private entity or using private funds); and

[(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

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[(B) NONATTAINMENT AREA.—The term “nonattainment area” has the meaning given that term in section 171 of the Clean Air Act (42 U.S.C. 7501).

[(2) DEMONSTRATION PROGRAM.—Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall carry out 15 demonstration projects during the period of fiscal years 2005 through 2009 to permit States, public authorities, or a public or private entities designated by States, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

[(A) to manage high levels of congestion;

[(B) to reduce emissions in a nonattainment area or maintenance area; or

[(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing one or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

[(3) LIMITATION ON USE OF REVENUES.—

[(A) USE.—

[(i) IN GENERAL.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

[(I) debt service;

[(II) a reasonable return on investment of any private financing;

[(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

[(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under title 23 or 49, United States Code.

[(B) REQUIREMENTS.—

[(i) VARIABLE PRICE REQUIREMENT.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

[(ii) HOV VARIABLE PRICING REQUIREMENT.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

[(iii) HOV PASSENGER REQUIREMENTS.—Pursuant to section 166 of title 23, United States Code, a State may permit motor vehicles with fewer than two occupants to operate in high occupancy vehicle lanes as

part of a variable toll pricing program established under this subsection.

**[(C) AGREEMENT.—**

**[(i) IN GENERAL.—**Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

**[(ii) TERMINATION.—**An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

**[(iii) DEBT.—**If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

**[(D) LIMITATION ON FEDERAL SHARE.—**The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

**[(4) ELIGIBILITY.—**To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—

**[(A)** a description of the congestion or air quality problems sought to be addressed under the program;

**[(B)** a description of—

**[(i)** the goals sought to be achieved under the program; and

**[(ii)** the performance measures that would be used to gauge the success made toward reaching those goals; and

**[(C)** such other information as the Secretary may require.

**[(5) AUTOMATION.—**Fees collected from motorists using an express lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

**[(6) INTEROPERABILITY.—**

**[(A) IN GENERAL.—**Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

**[(B) DEVELOPMENT.—**In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

[(i) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

[(ii) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and

[(iii) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

[(7) REPORTING.—

[(A) IN GENERAL.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

[(i) develop and publish performance goals for each express lane project;

[(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

[(I) effects on travel, traffic, and air quality;

[(II) distribution of benefits and burdens;

[(III) use of alternative transportation modes;

and

[(IV) use of revenues to meet transportation or impact mitigation needs.

[(B) REPORTS TO CONGRESS.—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—

[(i) not later than 1 year after the date of enactment of this Act, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

[(ii) not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for express lane programs.

[(c) INTERSTATE SYSTEM CONSTRUCTION TOLL PILOT PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary shall establish and implement an Interstate System construction toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or an interstate compact of States to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of constructing Interstate highways.

[(2) LIMITATION ON NUMBER OF FACILITIES.—The Secretary may permit the collection of tolls under this section on three facilities on the Interstate System.

[(3) ELIGIBILITY.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:

[(A) An identification of the facility on the Interstate System proposed to be a toll facility.

[(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under section 134 or 135 for the area has been consulted concerning the placement and amount of tolls on the facility.

[(C) An analysis demonstrating that financing the construction of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.

[(D) A facility management plan that includes—

[(i) a plan for implementing the imposition of tolls on the facility;

[(ii) a schedule and finance plan for the construction of the facility using toll revenues;

[(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;

[(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and

[(v) such other information as the Secretary may require.

[(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under paragraph (3) only if the Secretary determines that—

[(A) the State's analysis under paragraph (3)(C) is reasonable;

[(B) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;

[(C) the State plan for construction of the facility using toll revenues is reasonable;

[(D) the State will develop, manage, and maintain a system that will automatically collect the tolls; and

[(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.

[(5) PROHIBITION ON NONCOMPETE AGREEMENTS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—

[(A) excessive congestion;

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[(B) pavement wear; and  
[(C) an increased incidence of traffic accidents, injuries, or fatalities.

[(6) LIMITATIONS ON USE OF REVENUES; AUDITS.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—

[(A) all toll revenues received from operation of the toll facility will be used only for—

[(i) debt service;

[(ii) reasonable return on investment of any private person financing the project; and

[(iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and

[(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.

[(7) LIMITATION ON USE OF INTERSTATE MAINTENANCE FUNDS.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.

[(8) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.

[(9) INTERSTATE SYSTEM DEFINED.—In this section, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.]

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### Subtitle H—Environment

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#### [SEC. 1803. AMERICA'S BYWAYS RESOURCE CENTER.

[(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section to the America's Byways Resource Center established pursuant to section 1215(b)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 209).

[(b) TECHNICAL SUPPORT AND EDUCATION.—

[(1) USE OF FUNDS.—The Center shall use funds allocated to the Center under this section to continue to provide technical support and conduct educational activities for the national scenic byways program established under section 162 of title 23, United States Code.

[(2) ELIGIBLE ACTIVITIES.—Technical support and educational activities carried out under this subsection shall provide local officials and organizations associated with National Scenic Byways, All-American Roads, and America's Byways with proactive, technical, and on-site customized assistance, in-

cluding training, communications (including a public awareness series), publications, conferences, on-site meetings, and other assistance considered appropriate to develop and sustain such byways and roads.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section \$1,500,000 for fiscal year 2005 and \$3,000,000 for each of fiscal years 2006 through 2009.

[(d) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

**[SEC. 1804. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.**

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

[(1) HISTORIC COVERED BRIDGE.—The term “historic covered bridge” means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

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

[(b) HISTORIC COVERED BRIDGE PRESERVATION.—The Secretary shall—

[(1) collect and disseminate information on historic covered bridges;

[(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

[(3) conduct research on the history of historic covered bridges; and

[(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

[(c) GRANTS.—

[(1) IN GENERAL.—The Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out one or more historic covered bridge projects described in paragraph (2).

[(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

[(A) to rehabilitate or repair a historic covered bridge;

or

[(B) to preserve a historic covered bridge, including through—

[(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

[(ii) installation of a system to prevent vandalism and arson; or

[(iii) relocation of a bridge to a preservation site.

[(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

[(A) to the maximum extent practicable, the project—

[(i) is carried out in the most historically appropriate manner; and

[(ii) preserves the existing structure of the historic covered bridge; and

[(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), \$10,000,000 for each of fiscal years 2006 through 2009.

[(e) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be determined in accordance with section 120 of such title, and such funds shall remain available until expended and shall not be transferable.]

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**[SEC. 1807. NONMOTORIZED TRANSPORTATION PILOT PROGRAM.**

[(a) ESTABLISHMENT.—The Secretary shall establish and carry out a nonmotorized transportation pilot program to construct, in the following 4 communities selected by the Secretary, a network of nonmotorized transportation infrastructure facilities, including sidewalks, bicycle lanes, and pedestrian and bicycle trails, that connect directly with transit stations, schools, residences, businesses, recreation areas, and other community activity centers:

[(1) Columbia, Missouri.

[(2) Marin County, California.

[(3) Minneapolis, Minnesota.

[(4) Sheboygan County, Wisconsin.

[(b) PURPOSE.—The purpose of the program shall be to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within selected communities.

[(c) GRANTS.—In carrying out the program, the Secretary may make a grant of \$6,250,000 per fiscal year for each of the communities set forth in subsection (a) to State, local, and regional agencies that the Secretary determines are suitably equipped and organized to carry out the objectives and requirements of this section. An agency that receives a grant under this section may suballocate grant funds to a nonprofit organization to carry out the program under this section.

[(d) STATISTICAL INFORMATION.—In carrying out the program, the Secretary shall develop statistical information on changes in motor vehicle, nonmotorized transportation, and public transportation usage in communities participating in the program and assess how such changes decrease congestion and energy usage, increase the frequency of bicycling and walking, and promote better health and a cleaner environment.

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[(e) REPORTS.—The Secretary shall submit to Congress an interim report not later than September 30, 2007, and a final report not later than September 30, 2010, on the results of the program.

[(f) FUNDING.—

[(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), \$25,000,000 for each of fiscal years 2006 through 2009.

[(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project shall be 100 percent, and the funds shall remain available until expended and shall not be transferable.

[(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.]

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**Subtitle I—Miscellaneous**

\* \* \* \* \*

**[SEC. 1906. GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.**

[(a) GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to a State that—

[(1)(A) has enacted and is enforcing a law that prohibits the use of racial profiling in the enforcement of State laws regulating the use of Federal-aid highways; and

[(B) is maintaining and allows public inspection of statistical information for each motor vehicle stop made by a law enforcement officer on a Federal-aid highway in the State regarding the race and ethnicity of the driver and any passengers; or

[(2) provides assurances satisfactory to the Secretary that the State is undertaking activities to comply with the requirements of paragraph (1).

[(b) ELIGIBLE ACTIVITIES.—A grant received by a State under subsection (a) shall be used by the State—

[(1) in the case of a State eligible under subsection (a)(1), for costs of—

[(A) collecting and maintaining of data on traffic stops;

[(B) evaluating the results of the data; and

[(C) developing and implementing programs to reduce the occurrence of racial profiling, including programs to train law enforcement officers; and

[(2) in the case of a State eligible under subsection (a)(2), for costs of—

[(A) activities to comply with the requirements of subsection (a)(1); and

[(B) any eligible activity under paragraph (1).

[(c) RACIAL PROFILING.—

[(1) IN GENERAL.—To meet the requirement of subsection (a)(1), a State law shall prohibit, in the enforcement of State laws regulating the use of Federal-aid highways, a State or local law enforcement officer from using the race or ethnicity of the driver or passengers to any degree in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops on Federal-aid highways.

[(2) LIMITATION.—Nothing in this subsection shall alter the manner in which a State or local law enforcement officer considers race or ethnicity whenever there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.

[(d) LIMITATIONS.—

[(1) MAXIMUM AMOUNT OF GRANTS.—The total amount of grants made to a State under this section in a fiscal year may not exceed 5 percent of the amount made available to carry out this section in the fiscal year.

[(2) ELIGIBILITY.—A State may not receive a grant under subsection (a)(2) in more than 2 fiscal years.

[(e) AUTHORIZATION OF APPROPRIATIONS.—

[(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 \$7,500,000 for each of fiscal years 2005 through 2009.

[(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 80 percent, and such funds shall remain available until expended and shall not be transferable.

**ISEC. 1907. PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.**

[(a) IN GENERAL.—The Secretary shall conduct a demonstration project in the State of Alaska, and a demonstration project in the State of Tennessee, to study the safety impacts, environmental impacts, and cost effectiveness of different pavement marking systems and the effect of State bidding and procurement processes on the quality of pavement marking material employed in highway projects. The demonstration projects shall each include an evaluation of the impacts and effectiveness of increasing the width of pavement marking edge lines from 4 inches to 6 inches and an evaluation of advanced acrylic water-borne pavement markings.

[(b) REPORT.—Not later than June 30, 2009, the Secretary shall submit to Congress a report on the results of the demonstration projects, together with findings and recommendations on methods that will optimize the cost-benefit ratio of the use of Federal funds on pavement marking.

[(c) FUNDING.—

[(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), \$1,000,000 for each of fiscal years 2006 through 2009.

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[(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the demonstration projects shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.]

\* \* \* \* \*

[SEC. 1958. LIMITATION ON PROJECT APPROVAL.

[Notwithstanding any provision of title 23, United States Code, the Secretary is prohibited from approving any Federal-aid highway project in Orange and Seminole Counties, Florida, which provides access from Interstate Route 4 to the right-of-way or median of Interstate Route 4 if tolls or toll facilities are used for the access to the right-of-way or median.]

\* \* \* \* \*

**TITLE II—HIGHWAY SAFETY**

\* \* \* \* \*

[SEC. 2009. HIGH VISIBILITY ENFORCEMENT PROGRAM.

[(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in subsection (b) in each of years 2006 through 2012.

[(b) PURPOSE.—The purpose of each law enforcement campaign under this section shall be to achieve either or both of the following objectives:

[(1) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.

[(2) Increase use of seat belts by occupants of motor vehicles.

[(c) ADVERTISING.—The Administrator may use, or authorize the use of, funds available to carry out this section to pay for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement campaigns under this section. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.

[(d) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this section, including advertising funded under subsection (c), with a view to—

[(1) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, 406, and 410 of title 23, United States Code; and

[(2) 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.

[(e) USE OF FUNDS.—Funds made available to carry out this section may only be used for activities described in subsections (a), (c), and (f).

[(f) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of campaigns referred to in subsection (a).

[(g) STATE DEFINED.—The term “State” has the meaning such term has under section 401 of title 23, United States Code.

**[SEC. 2010. MOTORCYCLIST SAFETY.**

[(a) 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 the number of single- and multi-vehicle crashes involving motorcyclists.

[(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a 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 the other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

[(c) ALLOCATION.—The amount of a grant made to a State for a fiscal year under this section may not be less than \$100,000 and may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

[(d) GRANT ELIGIBILITY.—

[(1) IN GENERAL.—A State becomes eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary—

[(A) for the first fiscal year for which the State will receive a grant under this section, at least 1 of the 6 criteria listed in paragraph (2); and

[(B) for the second, third, fourth, fifth, sixth, and seventh fiscal years for which the State will receive a grant under this section, at least 2 of the 6 criteria listed in paragraph (2).

[(2) CRITERIA.—The criteria for eligibility for a grant under this section are the following:

[(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists and that may include innovative training opportunities to meet unique regional needs.

[(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.

[(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State

(expressed as a function of 10,000 motorcycle registrations).

[(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.

[(E) REDUCTION OF FATALITIES AND ACCIDENTS INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).

[(F) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs will be used for motorcycle training and safety programs.

[(e) ELIGIBLE USES.—

[(1) IN GENERAL.—A State may use funds from a grant under this section only for motorcyclist safety training and motorcyclist awareness programs, including—

[(A) improvements to motorcyclist safety training curricula;

[(B) improvements in program delivery of motorcycle training to both urban and rural areas, including—

[(i) procurement or repair of practice motorcycles;

[(ii) instructional materials;

[(iii) mobile training units; and

[(iv) leasing or purchasing facilities for closed-course motorcycle skill training;

[(C) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and

[(D) public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the “share-the-road” safety messages developed under subsection (g).

[(2) SUBALLOCATIONS OF FUNDS.—An agency of a State that receives a grant under this section may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out under this section.

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

[(1) 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 the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

[(2) MOTORCYCLIST AWARENESS.—The term “motorcyclist awareness” means individual or collective awareness of—

[(A) the presence of motorcycles on or near roadways; and

[(B) safe driving practices that avoid injury to motorcyclists.

[(3) MOTORCYCLIST AWARENESS PROGRAM.—The term “motorcyclist awareness program” means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.

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

[(g) SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the National Highway Traffic Safety Administration, shall develop and provide to the States model language for use in traffic safety education courses, driver’s manuals, and other driver’s training materials instructing the drivers of motor vehicles on the importance of sharing the roads safely with motorcyclists.

**[SEC. 2011. CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.**

[(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants to States that are enforcing a law requiring that any child riding in a passenger motor vehicle in the State who is too large to be secured in a child safety seat be secured in a child restraint that meets the requirements prescribed by the Secretary under section 3 of Anton’s Law (49 U.S.C. 30127 note; 116 Stat. 2772).

[(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a 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 child safety seat and child restraint programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.

[(c) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this section shall not exceed—

[(1) for the first 3 fiscal years for which a State receives a grant under this section, 75 percent; and

[(2) for the fourth, fifth, sixth, and seventh fiscal years for which a State receives a grant under this section, 50 percent.

[(d) USE OF GRANT AMOUNTS.—

[(1) ALLOCATIONS.—Of the amounts received by a State in grants under this section for a fiscal year not more than 50 percent shall be used to fund programs for purchasing and distributing child safety seats and child restraints to low-income families.

[(2) REMAINING AMOUNTS.—Amounts received by a State in grants under this section, other than amounts subject to paragraph (1), shall be used to carry out child safety seat and child restraint programs, including the following:

[(A) A program to support enforcement of child restraint laws.

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[(B) A program to train child passenger safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child safety seats and child restraints.

[(C) A program to educate the public concerning the proper use and installation of child safety seats and child restraints.

[(e) GRANT AMOUNT.—The amount of a grant to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.

[(f) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) of such title shall apply to this section.

[(g) REPORT.—A State that receives a grant under this section shall transmit to the Secretary a report documenting the manner in which the grant amounts were obligated and expended and identifying the specific programs carried out using the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under of chapter 4 of title 23, United States Code.

[(h) 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 (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) CHILD SAFETY SEAT.—The term “child safety seat” has the meaning such term has in section 405(f) of title 23, United States Code.

[(3) PASSENGER MOTOR VEHICLE.—The term “passenger motor vehicle” has the meaning such term has in section 405(f) of such title.

[(4) STATE.—The term “State” has the meaning such term has in section 101(a) of such title.]

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**[SEC. 2013. DRUG-IMPAIRED DRIVING ENFORCEMENT.**

[(a) ILLICIT DRUG.—In this section, the term “illicit drug” includes substances listed in schedules I through V of section 112(e) of the Controlled Substances Act (21 U.S.C. 812) not obtained by a legal and valid prescription.

[(b) DUTIES.—The Secretary shall—

[(1) advise and coordinate with other Federal agencies on how to address the problem of driving under the influence of an illegal drug; and

[(2) conduct research on the prevention, detection, and prosecution of driving under the influence of an illegal drug.

[(c) REPORT.—

[(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in cooperation with the National Institutes of Health, shall submit to Congress a report on the problem of drug-impaired driving.

[(2) CONTENTS.—The report shall include, at a minimum, the following:

[(A) An assessment of methodologies and technologies for measuring driver impairment resulting from use of the most common illicit drugs (including the use of such drugs in combination with alcohol).

[(B) Effective and efficient methods for training law enforcement personnel, including drug recognition experts, to detect or measure the level of impairment of a driver who is under the influence of an illicit drug by the use of technology or otherwise.

[(C) A description of the role of drugs as causal factor in traffic crashes and the extent of the problem of drug-impaired driving.

[(D) A description and assessment of current State and Federal laws relating to drug-impaired driving.

[(E) Recommendations for addressing the problem of drug-impaired driving, including recommendations on levels of impairment.

[(F) Recommendations for developing a model statute relating to drug-impaired driving.

[(d) MODEL STATUTE.—

[(1) IN GENERAL.—The Secretary shall develop a model statute for States relating to drug-impaired driving.

[(2) CONTENTS.—Based on recommendations and findings contained in the report submitted under subsection (c), the model statute may include—

[(A) threshold levels of impairment for illicit drugs;

[(B) practicable methods for detecting the presence of illicit drugs; and

[(C) penalties for drug impaired driving.

[(3) DATE.—The model statute shall be provided to States not later than 1 year after date of submission of the report under subsection (c).

[(e) RESEARCH AND DEVELOPMENT.—Section 403(b) of title 23, United States Code, is amended by adding at the end the following:

[(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.”.

[(f) FUNDING.—Out of amounts made available to carry out section 403 of title 23, United States Code, for each of fiscal years 2006 through 2012, the Secretary shall make available \$1,200,000 for such fiscal year to carry out this section.

**[SEC. 2014. FIRST RESPONDER VEHICLE SAFETY PROGRAM.**

[(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the National Highway Traffic Safety Administration, should—

[(1) develop and implement a comprehensive program to promote compliance with State and local laws intended to increase the safe and efficient operation of first responder vehicles;

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[(2) compile a list of best practices by State and local governments to promote compliance with the laws described in paragraph (1);

[(3) analyze State and local laws intended to increase the safe and efficient operation of first responder vehicles; and

[(4) develop model legislation to increase the safe and efficient operation of first responder vehicles.

[(b) PARTNERSHIPS.—The Secretary may enter into partnerships with qualified organizations to carry out this section.

[(c) PUBLIC OUTREACH.—The Secretary shall use a variety of public outreach strategies to carry out this section, including public service announcements, publication of informational materials, and posting information on the Internet.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for fiscal year 2006.]

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**[SEC. 2016. RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM.**

[(a) IN GENERAL.—From funds made available to carry out section 403 of title 23, United States Code, for fiscal year 2006, the Secretary shall make \$1,000,000 available to conduct a pilot program for optimizing emergency medical services in a rural State.

[(b) COLLECTING DATA.—The pilot program shall focus on collecting geo-coded data for highway accidents and resulting injuries, analyzing data to develop injury patterns and distributions, and improving placement and management of emergency medical services resources and personnel.

[(c) SELECTION.—The Secretary shall enter into an agreement with the State of Alaska to conduct the pilot program.

[(d) REPORT.—Not later than 12 months after the completion of the pilot program, the Secretary shall transmit 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 on the results of the pilot program and recommendations for application to other rural States.

**[SEC. 2017. OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.**

[(a) IMPROVING OLDER DRIVER SAFETY.—

[(1) IN GENERAL.—Of the funds made available to carry out section 403 of title 23, United States Code, the Secretary shall allocate \$1,700,000 for each of fiscal years 2006 through 2012 to conduct a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers.

[(2) ELEMENTS OF PROGRAM.—The program shall—

[(A) provide information and guidelines to assist older drivers, physicians, and other related medical personnel, families, licensing agencies, enforcement officers, and various public and transit agencies in enhancing the safety of older drivers;

[(B) improve the scientific basis of medical standards and screenings strategies used in the licensing of all drivers in a non-discriminatory manner;

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[(C) conduct field tests to assess the safety benefits and mobility impacts of different driver licensing strategies and driver assessment and rehabilitation methods;

[(D) assess the value and improve the safety potential of driver retraining courses of particular benefit to older drivers; and

[(E) conduct other activities to accomplish the objectives of this section.

[(3) FORMULATION OF PLAN.—After consultation with affected parties, the Secretary shall formulate an older driver traffic safety plan to guide the design and implementation of the program.

[(4) SUBMISSION OF PLAN TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the plan to the Committee on Transportation and Infrastructure House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

[(b) LAW ENFORCEMENT TRAINING.—

[(1) REQUIREMENT FOR PROGRAM.—The Secretary shall carry out a program to provide guidance and support to law enforcement agencies in police chase techniques that are consistent with the police chase guidelines issued by the International Association of Chiefs of Police.

[(2) AMOUNT FOR PROGRAM.—Of the funds made available to carry out section 403 of title 23, United States Code, the Secretary shall allocate \$500,000 in each of fiscal years 2006 through 2012 to carry out this subsection.]

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**TITLE III—PUBLIC TRANSPORTATION**

\* \* \* \* \*

**SEC. 3009. URBANIZED AREA FORMULA GRANTS.**

(a) \* \* \*

\* \* \* \* \*

[(i) CONTRACTED PARATRANSIT PILOT.—

[(1) IN GENERAL.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2012, a recipient of assistance under section 5307 of such title in urbanized areas with a population of 558,329 or 747,003 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of such title for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.

[(2) REPORT.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Com-

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mittee on Banking, Housing, and Urban Affairs of the Senate a report on the implementation of this subsection and any recommendations of the Secretary regarding the application of this subsection.]

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**SEC. 3012. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.**

(a) \* \* \*

**[(b) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—**

**[(1) IN GENERAL.—**In fiscal year 2006, the Secretary shall establish a pilot program that will allow Wisconsin, Alaska, Minnesota, Oregon, and 3 other States selected by the Secretary to use not more than 33 percent of the funds apportioned to each State to carry out section 5310 of title 49, United States Code, for operating costs associated with public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities under such section. The Secretary may base the selection of participating States on a State's exemplary coordination of public transit-human services transportation. The Secretary may require participants to collect data necessary to support the report to Congress required by paragraph (7).

**[(2) PLANNING COORDINATION.—**Recipients of funds made available consistent with this subsection shall certify that—

**[(A)** the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

**[(B)** the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

**[(3) GOVERNMENT'S SHARE OF COSTS.—**Operating assistance under this subsection may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for formula grants for the special needs of elderly individuals and individuals with disabilities program authorized under section 5310 of title 49, United States Code.

**[(4) REMAINDER.—**The remainder of the net project costs—

**[(A)** may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

**[(B)** may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.

**[(5) USE OF CERTAIN FUNDS.—**For purposes of paragraph (4)(B), the prohibitions on the use of funds for matching re-

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quirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

[(6) ELIGIBLE ACTIVITIES.—Projects eligible under the pilot program may include the collection of data necessary to support the report to Congress required by paragraph (7).

[(7) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program, which may include—

[(A) the extent to which funds were used to subsidize existing paratransit service provided in compliance with the Americans with Disabilities Act of 1990;

[(B) whether States participating in the pilot program use the funds to provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 differently than States not in the pilot program;

[(C) whether States participating in this pilot program use the funds to provide services to individuals with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 to the detriment of other eligible projects;

[(D) the percentage of funds used to assist elderly individuals;

[(E) the percentage of funds used to assist individuals with disabilities;

[(F) the extent to which States participating in this pilot program serve a wider range of elderly, low income, and persons with disabilities populations;

[(G) whether the pilot program improves services to elderly individuals and individuals with disabilities;

[(H) the extent to which States participating in the pilot program were able to expand the range of transportation alternatives available to elderly individuals and individuals with disabilities; and

[(I) whether the pilot program facilitates or discourages coordination with or integration of other funding sources.

[(8) SUNSET.—This subsection shall cease to be effective on September 30, 2012.]

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**[SEC. 3045. NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.**

[(a) ESTABLISHMENT.—The Secretary shall establish a national fuel cell bus technology development program (in this section referred to as the “program”) to facilitate the development of commercially viable fuel cell bus technology and related infrastructure.

[(b) GENERAL AUTHORITY.—The Secretary may enter into grants, contracts, and cooperative agreements with no more than 3 geographically diverse nonprofit organizations and recipients

under chapter 53 of title 49, United States Code, to conduct fuel cell bus technology and infrastructure projects under the program.

[(c) GRANT CRITERIA.—In selecting applicants for grants under the program, the Secretary shall consider the applicant's—

[(1) ability to contribute significantly to furthering fuel cell technology as it relates to transit bus operations, including hydrogen production, energy storage, fuel cell technologies, vehicle systems integration, and power electronics technologies;

[(2) financing plan and cost share potential;

[(3) fuel cell technology to ensure that the program advances different fuel cell technologies, including hydrogen-fueled and methanol-powered liquid-fueled fuel cell technologies, that may be viable for public transportation systems; and

[(4) other criteria that the Secretary determines are necessary to carry out the program.

[(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under the program. Grant recipients shall be selected on a competitive basis. The Secretary shall give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 5 years.

[(e) FEDERAL SHARE.—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost.

[(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

[(1) all terms and conditions applicable to a grant made under section 5309 of title 49, United States Code; and

[(2) such other terms and conditions as are determined by the Secretary.

**[SEC. 3046. ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.**

[(a) IN GENERAL.—Amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title shall be allocated by the Secretary as follows:

[(1) PUBLIC TRANSPORTATION NATIONAL SECURITY STUDY.—

[(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study and evaluation of the value major public transportation systems in the United States serving the 38 urbanized areas that have a population of more than 1,000,000 individuals provide to the Nation's security and the ability of such systems to accommodate the evacuation, egress or ingress of people to or from critical locations in times of emergency.

[(B) ALTERNATIVE ROUTES.—For each system described in subparagraph (A) the study shall identify—

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[(i) potential alternative routes for evacuation using other transportation modes such as highway, air, marine, and pedestrian activities; and

[(ii) transit routes that, if disrupted, do not have sufficient transit alternatives available.

[(C) REPORT.—Not later than 24 months after the date of entry into the agreement, the Academy shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a final report on the results of the study and evaluation, together with such recommendations as the Academy considers appropriate.

[(D) FUNDING.—For each of fiscal year 2006 and 2007 \$250,000 shall be available to carry out this paragraph.

[(2) CENTER FOR TRANSIT-ORIENTED DEVELOPMENT.—For each of fiscal years 2006 through 2009, not less than \$1,000,000 shall be made available by the Secretary for establishment and operation of the Center for Transit-Oriented Development—

[(A) to develop standards and definitions for transit-oriented development adjacent to public transportation facilities;

[(B) to develop system planning guidance, performance criteria, and modeling techniques for metropolitan planning agencies and public transportation agencies to maximize ridership through land use planning and adjacent development; and

[(C) to provide research support and technical assistance to public transportation agencies, metropolitan planning agencies, and other persons regarding transit-oriented development.

[(3) TRANSPORTATION EQUITY RESEARCH PROGRAM.—For each of fiscal years 2006 through 2009, not less than \$1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the impacts that transportation planning, investment, and operations have on low-income and minority populations that are transit dependent. Such activities shall include the development of strategies to advance economic and community development in low-income and minority communities and the development of training programs that promote the employment of low-income and minority community residents on Federal-aid transportation projects constructed in their communities.

[(4) COGNITIVE IMPAIRMENT STUDY.—For fiscal year 2006, \$1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the capacity and resources of Oregon public transportation systems to address the needs, barriers, and desires for travel of people with cognitive impairments.

[(5) TRANSIT CAREER LADDER TRAINING PROGRAM.—For each of fiscal years 2006 through 2009, not less than \$1,000,000 shall be available for a nationwide career ladder job training partnership program for public transportation employ-

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ees to respond to technological changes in the public transportation industry, especially in the area of maintenance. Such program shall be carried out by the Secretary through a contract with a national nonprofit organization with a demonstrated capacity to develop and provide such programs.

[(6) PILOT PROGRAM FOR REMOTE INFRARED AUDIBLE SIGNS.—

[(A) IN GENERAL.—For each of fiscal years 2006 through 2009, not less than \$500,000 shall be made available by the Secretary to carry out a pilot program to determine the benefits of remote infrared audible signage technology for provision of wayfinding and information to people who are visually, cognitively, or learning disabled.

[(B) REPORT.—

[(i) IN GENERAL.—Not later than September 30, 2009, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program carried out under this section.

[(ii) CONTENTS.—The report—

[(I) shall include—

[(aa) an evaluation of the effect of the pilot program on multimodal accessibility in public transportation;

[(bb) an evaluation of the effect of the program on operators of public transportation and their passengers;

[(cc) an evaluation of the effect of making public transportation accessible to people with visual, cognitive, and learning disabilities on ridership of public transportation and use of paratransit; and

[(dd) an evaluation of the effect of the program on the education, community integration, work life, and general quality of life of the targeted populations.

[(7) HYDROGEN FUEL CELL SHUTTLE DEPLOYMENT DEMONSTRATION PROJECT.—To demonstrate the utility of hydrogen fueled vehicles in daily shuttle service, \$800,000 in each of fiscal years 2006 and 2007 shall be provided for hydrogen fueled employee shuttle vans, related equipment, operations, public education and outreach to the DaVinci Center in Allentown, Pennsylvania.

[(8) WISCONSIN SUPPLEMENTAL TRANSPORTATION RURAL ASSISTANCE PROGRAM (STRAP).—

[(A) IN GENERAL.—For capital projects, operations, purchase or lease of vehicles, and integration, planning and coordination of public transportation services in the State of Wisconsin that will supplement and expand existing rural and special public transportation services in that State, \$2,000,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to the State of Wisconsin Department of Transportation.

[(B) PURPOSE.—Funds received under this program may be used to supplement public transportation programs for rural populations for activities authorized under sections 5310, 5311, and 5316 of title 49, United States Code. Funds made available under this program are subject to the requirements of section 5311 of title 49, United States Code, except that funds may be made available for up to 80 percent of net operating costs. In awarding grants made available under this program, the State shall consider—

[(i) rural population in the area to be served by the applicant;

[(ii) extent to which the applicant demonstrates coordination of existing transportation services or proposed public transportation services;

[(iii) need for additional services in the area being serviced by the applicant and the extent to which the proposed services will address those needs and provide accessibility for non-ambulatory recipients;

[(iv) extent to which the applicant demonstrates an innovative approach that is responsive to the identified service needs of the rural population; and

[(v) extent to which the applicant demonstrates that the communities being served have been consulted in the planning process.

[(9) HUMAN SERVICES TRANSPORTATION COORDINATION.—

[(A) IN GENERAL.—For the management of a program to improve and enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation, \$1,600,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to a national non-profit organization that is competitively selected by the Secretary. Such organization shall have demonstrated expertise in issues of transportation coordination and in providing technical assistance to local transportation organizations.

[(B) ELIGIBLE ACTIVITIES.—Under this program, the organization selected by the Secretary shall—

[(i) establish an advisory panel consisting of Federal, State, and local officials and organizations;

[(ii) prepare an inventory of human service transportation agencies operating in the United States;

[(iii) prepare an inventory of Federal transportation spending;

[(iv) develop a program of technical assistance and training for human services transportation organizations that shall include on-site technical assistance, a resource clearinghouse, and preparation of technical manuals;

[(v) prepare an annual report for the Secretary on activities under this program and make recommendations for improving coordination.

[(10) PORTLAND, OREGON STREETCAR PROTOTYPE PURCHASE AND DEPLOYMENT.—Not less than \$1,000,000 shall be made available in each of fiscal years 2006, 2007, 2008, and 2009 by

the Secretary to TriMet for the purchase and deployment of a domestically manufactured streetcar.

[(11) PUBLIC TRANSPORTATION PARTICIPATION PILOT PROGRAM.—

[(A) IN GENERAL.—Of the funds allocated under this section for each of fiscal years 2006 through 2009, \$1,000,000 for each fiscal year shall be made available by the Secretary to establish a pilot program to support planning and public participation activities related to public transportation projects.

[(B) ELIGIBLE ACTIVITIES.—Activities eligible to be carried out under the pilot program may include the following:

[(i) Improving data collection analysis and transportation access for all users of the public transportation systems.

[(ii) Supporting public participation through the project development phases.

[(iii) Using innovative techniques to improve the coordination of transportation alternatives.

[(iv) Enhancing the coordination of public transportation benefits and services.

[(v) Contracting with stakeholders to focus on the delivery of transportation plans and programs.

[(vi) Measuring and reporting on the annual performance of the transportation systems.

[(12) TRANSPORTATION HYBRID ELECTRIC VEHICLE AND FUEL CELL RESEARCH.—\$500,000 in each of fiscal years 2006 through 2009 for a transportation hybrid electric vehicle and fuel cell research program at the University of Alabama.

[(13) TRAUMA CARE SYSTEM RESEARCH AND DEVELOPMENT.—\$500,000 in each of fiscal years 2006 through 2009 for trauma care system research and development at the University of Alabama in Birmingham.

[(14) TRANSPORTATION INFRASTRUCTURE AND LOGISTICS RESEARCH.—\$500,000 in each of fiscal years 2006 through 2009 for transportation infrastructure and logistics research at the University of Alabama in Huntsville.

[(15) NATIONAL BUS RAPID TRANSIT INSTITUTE.—\$1,750,000 in each of fiscal years 2006 through 2009 for the National Bus Rapid Transit Institute at the University of South Florida.

[(16) APPLICATION OF INFORMATION TECHNOLOGY TO TRANSPORTATION LOGISTICS AND SECURITY.—\$400,000 in each of fiscal years 2006 through 2009 for research on the application of information technology to transportation logistics and security at the Northern Kentucky University.

[(17) INTELLIGENT TRANSPORTATION SYSTEM PILOT PROJECT.—\$465,000 in each of fiscal years 2006 through 2009 for an intelligent transportation system pilot project with the National Consortium on Remote Sensing in Transportation Flows at the Ohio State University.

[(18) REGIONAL PUBLIC SAFETY TRAINING CENTER.—\$500,000 in each of fiscal years 2006 through 2009 for a re-

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gional public safety training center at the Lehigh-Carbon Community College.

[(19) TRANSIT SECURITY TRAINING FACILITY.—\$750,000 in each of fiscal years 2006 through 2009 for a transit security training facility in Chester County, Pennsylvania.

[(20) SMALL URBAN AND RURAL TRANSIT CENTER.—\$800,000 in fiscal year 2006, \$800,000 in fiscal year 2007, \$1,200,000 in fiscal year 2008, and \$1,200,000 in fiscal year 2009 for the Small Urban and Rural Transit Center at North Dakota State University.

[(21) ADVANCED TECHNOLOGY BUS RAPID TRANSIT PROJECT.—\$500,000 in fiscal year 2006, \$540,000 in fiscal year 2007, \$550,000 in fiscal year 2008, and \$625,000 in fiscal year 2009 for the Southeastern Connecticut Advanced Technology Bus Rapid Transit Project.

[(22) GREATER NEW HAVEN TRANSIT DISTRICT FUEL CELL-POWERED BUS RESEARCH.—\$500,000 in fiscal year 2006, \$540,000 in fiscal year 2007, \$550,000 in fiscal year 2008, and \$625,000 in fiscal year 2009 for the Greater New Haven Transit District Fuel Cell-Powered Bus Research.

[(23) CENTER FOR ADVANCED TRANSPORTATION INITIATIVES.—\$500,000 in fiscal year 2006, \$540,000 in fiscal year 2007, \$540,000 in fiscal year 2008, and \$625,000 in fiscal year 2009 for the Rutgers Center for Advanced Transportation Initiatives (CAIT).

[(24) INSTITUTE OF TECHNOLOGY'S TRANSPORTATION, ECONOMIC, AND LAND USE SYSTEM.—\$500,000 in fiscal year 2006, \$540,000 in fiscal year 2007, \$540,000 in fiscal year 2008, and \$625,000 in fiscal year 2009 for the New Jersey Institute of Technology's Transportation, Economic, and Land Use System program (TELUS).

[(25) REGIONAL TRANSIT TRAINING CONSORTIUM PILOT PROGRAM.—\$270,000 in fiscal year 2006, \$380,000 in fiscal year 2007, \$380,000 in fiscal year 2008, and \$450,000 in fiscal year 2009 for the Southern California Regional Transit Training Consortium Pilot Program.

[(b) REMAINDER.—After making allocations under subsection (a), the remainder of funds made available by section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 for a fiscal year shall be allocated at the discretion of the Secretary to other transit research, development, demonstration and deployment projects authorized by sections 5312, 5314, and 5322 of such title.

[(c) ADDITIONAL APPROPRIATIONS.—The Secretary shall allocate amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title—

[(1) for each of fiscal years 2010 and 2011, in amounts equal to the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), (6), and (8) through (25) of subsection (a); and

[(2) for fiscal year 2012, in amounts equal to 63 percent of the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), and (8) through (25) of subsection (a).

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[(d) FUNDING.—If the Secretary determines that a project or activity described in subsection (a) received sufficient funds in fiscal year 2011, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Secretary may not allocate any amounts under subsection (c) for the project or activity for fiscal year 2012, or any subsequent fiscal year.]

\* \* \* \* \*

**TITLE IV—MOTOR CARRIER SAFETY**

\* \* \* \* \*

**Subtitle A—Commercial Motor Vehicle Safety**

\* \* \* \* \*

**SEC. 4123. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.**

(a) \* \* \*

\* \* \* \* \*

[(c) GRANTS.—

[(1) IN GENERAL.—The Secretary may make a grant to a State or organization representing agencies and officials of a State in a fiscal year to modernize the commercial driver's license information system of the State to be compatible with the modernized commercial driver's license information system under section 31309 of title 49, United States Code, if the State is in substantial compliance with the requirements of section 31311 of such title and this section, as determined by the Secretary.

[(2) CRITERIA.—The Secretary shall establish criteria for the distribution of grants and notify each State annually of such criteria.

[(3) USE OF GRANT.—A State may use a grant under this subsection only to implement improvements that are consistent with the modernization plan developed by the Secretary.

[(4) GOVERNMENT SHARE.—A grant under this subsection to a State or organization may not be for more than 80 percent of the costs incurred by the State or organization in a fiscal year in modernizing the commercial driver's license information system of the State to be compatible with the modernized commercial driver's license information system under section 31309 of title 49, United States Code. In determining these costs, the Secretary shall include in-kind contributions of the State.

[(d) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

[(1) \$5,000,000 for fiscal year 2006;

[(2) \$7,000,000 for fiscal year 2007;

[(3) \$8,000,000 for fiscal year 2008;

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- [(4) \$8,000,000 for fiscal year 2009;
- [(5) \$8,000,000 for fiscal year 2010; and
- [(6) \$8,000,000 for fiscal year 2011.

[(e) CONTRACT AUTHORITY AND AVAILABILITY.—

[(1) PERIOD OF AVAILABILITY.—The amounts made available under subsection (d) shall remain available until expended.

[(2) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (d) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

[(3) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (d) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.]

\* \* \* \* \*

SEC. 4126. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

(1) improve the safety and productivity of commercial vehicles and drivers; [and]

(2) reduce costs associated with commercial vehicle operations [and Federal and State commercial vehicle regulatory requirements.];

(3) *facilitate compliance with Federal and State commercial motor vehicle regulatory requirements; and*

(4) *provide assistance for State participation in the performance and registration information systems management program under section 31109.*

\* \* \* \* \*

(c) CORE DEPLOYMENT GRANTS.—

(1) \* \* \*

[(2) AMOUNT OF GRANTS.—The maximum aggregate amount the Secretary may grant to a State for the core deployment of commercial vehicle information systems and networks under this subsection and sections 5001(a)(5) and 5001(a)(6) of the Transportation Equity Act for the 21st Century (112 Stat. 420) may not exceed \$2,500,000.]

[(3)] (2) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. An eligible State that has either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before grant funds are expended under this subsection may use the grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

(d) EXPANDED DEPLOYMENT GRANTS.—

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(1) \* \* \*

\* \* \* \* \*

[(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed \$1,000,000 per State.]

[(4) (3) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

(e) ELIGIBILITY.—To be eligible for a grant under this section, a State—

(1) \* \* \*

(2) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—

(A) \* \* \*

(B) promote interoperability and efficiency in interstate commerce to the extent practicable; [and]

(3) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks[.]; and

(4) shall be participating not later than September 30, 2015, in the performance and registration information systems management program under section 31109 of title 49, United States Code.

(f) FEDERAL SHARE.—[The Federal]

(1) IN GENERAL.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible Federal sources shall not exceed 80 percent.

(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT PROGRAM.—Notwithstanding any other provision of this subsection, the Federal share of the cost of a project relating to participation in the performance and registration information systems management program under section 31109 of title 49, United States Code, shall be 100 percent for fiscal years 2013 through 2016.

\* \* \* \* \*

[SEC. 4127. OUTREACH AND EDUCATION.

[(a) IN GENERAL.—The Secretary shall conduct, through any combination of grants, contracts, or cooperative agreements, an outreach and education program to be administered by the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration.

[(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

[(1) A program to promote a more comprehensive and national effort to educate commercial motor vehicle drivers and

passenger vehicle drivers about how commercial motor vehicle drivers and passenger vehicle drivers can more safely share the road with each other.

[(2) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or contribute to crashes involving commercial motor vehicles and passenger vehicles.

[(3) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in paragraphs (1) and (2) to each partner's constituents and to the general public through the use of brochures, videos, paid and public advertisements, the Internet, and other media.

[(c) FEDERAL SHARE.—The Federal share of a program or activity for which a grant is made under this section shall be 100 percent of the cost of such program or activity.

[(d) ANNUAL REPORT.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section. The final annual report shall be submitted not later than September 30, 2009.

[(e) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available \$1,000,000 to the Federal Motor Carrier Safety Administration, and \$3,000,000 to the National Highway Traffic Safety Administration, for each of fiscal years 2006, 2007, 2008, 2009, 2010, 2011, and 2012 to carry out this section (other than subsection (f)).

[(f) STUDY.—The Comptroller General shall update the Government Accountability Office's evaluation of the "Share the Road Safely" program to determine if it has achieved reductions in the number and severity of commercial motor vehicle crashes, including reductions in the number of deaths and the severity of injuries sustained in these crashes and shall report its updated evaluation to Congress no later than June 30, 2006.

**[SEC. 4128. SAFETY DATA IMPROVEMENT PROGRAM.]**

[(a) IN GENERAL.—The Secretary shall make grants to States for projects and activities to improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary.

[(b) ELIGIBILITY.—A State shall be eligible for a grant under this section in a fiscal year if the Secretary determines that the State has—

[(1) conducted a comprehensive audit of its commercial motor vehicle safety data system within the preceding 2 years;

[(2) developed a plan that identifies and prioritizes its commercial motor vehicle safety data needs and goals; and

[(3) identified performance-based measures to determine progress toward those goals.

[(c) FEDERAL SHARE.—The Federal share of a grant under this section shall be 80 percent of the cost of the activities for which the grant is made.

[(d) BIENNIAL REPORT.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the activities and results of

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the program carried out under this section, together with any recommendations the Secretary determines appropriate.]

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**[SEC. 4134. GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.**

[(a) ESTABLISHMENT.—The Secretary shall establish a grant program for persons to train operators of commercial motor vehicles (as defined in section 31301 of title 49, United States Code). The purpose of the program shall be to train operators and future operators in the safe use of such vehicles.

[(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.

[(c) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available \$1,000,000 for each of fiscal years 2005 through 2012 to carry out this section.]

\* \* \* \* \*

**SEC. 4144. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.**

(a) \* \* \*

\* \* \* \* \*

(d) TERMINATION DATE.—Notwithstanding the Federal Advisory Committee Act (5 U.S.C. App.), the advisory committee [shall terminate on September 30, 2012.] *shall terminate on September 30, 2017.*

\* \* \* \* \*

**TITLE V—RESEARCH**

\* \* \* \* \*

**Subtitle C—Intelligent Transportation System Research**

\* \* \* \* \*

**[SEC. 5303. GOALS AND PURPOSES.**

[(a) GOALS.—The goals of the intelligent transportation system program include—

[(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

[(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

[(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

[(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles and pedestrians, including individuals with disabilities; and

[(5) improvement of the Nation's ability to respond to security-related or other manmade emergencies and natural disasters and enhancement of national defense mobility.

[(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

[(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

[(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

[(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

[(4) promote the innovative use of private resources;

[(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

[(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

[(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

[(8) provide continuing support for operations and maintenance of intelligent transportation systems.

**[SEC. 5304. INFRASTRUCTURE DEVELOPMENT.**

[(Funds made available to carry out this subtitle for operational tests—

[(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

[(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

**[SEC. 5305. GENERAL AUTHORITIES AND REQUIREMENTS.**

[(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

[(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall

encourage and not displace public-private partnerships or private sector investment in such tests and projects.

**[(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—**The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and colleges and universities, including historically Black colleges and universities and other minority institutions of higher education.

**[(d) CONSULTATION WITH FEDERAL OFFICIALS.—**In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.

**[(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—**The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

**[(f) TRANSPORTATION PLANNING.—**The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

**[(g) INFORMATION CLEARINGHOUSE.—**

**[(1) IN GENERAL.—**The Secretary shall—

**[(A)]** maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle (including the amendments made by this subtitle); and

**[(B)]** make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

**[(2) AGREEMENT.—**

**[(A) IN GENERAL.—**The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

**[(B) FEDERAL FINANCIAL ASSISTANCE.—**If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

**[(3) AVAILABILITY OF INFORMATION.—**Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

**[(h) ADVISORY COMMITTEE.—**

**[(1) IN GENERAL.—**The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this subtitle.

**[(2) MEMBERSHIP.—**The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—

**[(A)]** a representative from a State highway department;

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[(B) a representative from a local highway department who is not from a metropolitan planning organization;

[(C) a representative from a State, local, or regional transit agency;

[(D) a representative from a metropolitan planning organization;

[(E) a private sector user of intelligent transportation system technologies;

[(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

[(G) an academic researcher who is a civil engineer;

[(H) an academic researcher who is a social scientist with expertise in transportation issues;

[(I) a representative from a nonprofit group representing the intelligent transportation system industry;

[(J) a representative from a public interest group concerned with safety;

[(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

[(L) members with expertise in planning, safety, and operations.

[(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

[(A) Provide input into the development of the Intelligent Transportation System aspects of the strategic plan under section 508 of title 23, United States Code.

[(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

[(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;

[(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

[(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

[(4) REPORT.—Not later than February 1 of each year after the date of enactment of this Act, the Secretary shall transmit to the Congress a report including—

[(A) all recommendations made by the Advisory Committee during the preceding calendar year;

[(B) an explanation of how the Secretary has implemented those recommendations; and

[(C) for recommendations not implemented, the reasons for rejecting the recommendations.

[(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[(i) REPORTING.—

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[(1) GUIDELINES AND REQUIREMENTS.—

[(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this subtitle.

[(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

[(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

[(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44, United States Code.

[SEC. 5306. RESEARCH AND DEVELOPMENT.

[(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this subtitle.

[(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

[(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;

[(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

[(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—

[(A) reducing metropolitan congestion by not less than 5 percent by 2010;

[(B) ensuring that a national, interoperable 5-1-1 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

[(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

[(ii) improving communication between emergency care providers and trauma centers;

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[(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

[(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

[(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and

[(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

[(c) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80.

[SEC. 5307. NATIONAL ARCHITECTURE AND STANDARDS.

[(a) IN GENERAL.—

[(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

[(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

[(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

[(4) USE OF EXPERT PANEL.—

[(A) DESIGNATION.—The Secretary shall designate a panel of experts to recommend ways to expedite and streamline the process for developing the standards and protocols to be developed pursuant to paragraph (1).

[(B) NONAPPLICABILITY OF ADVISORY COMMITTEE ACT.—The expert panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[(C) DEADLINE FOR RECOMMENDATION.—Not later than September 30, 2007, the expert panel shall provide the Secretary with a recommendation relating to such standards development.

[(b) PROVISIONAL STANDARDS.—

[(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.

[(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

[(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

[(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

[(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

[(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508 of title 23, United States Code; or

[(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this Act if the Secretary determines that the upgrade or expansion—

[(i) would not adversely affect the goals or purposes of this subtitle;

[(ii) is carried out before the end of the useful life of such system; and

[(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

[(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this Act.

**[SEC. 5308. ROAD WEATHER RESEARCH AND DEVELOPMENT PROGRAM.]**

[(a) ESTABLISHMENT.—The Secretary shall establish a road weather research and development program to—

[(1) maximize use of available road weather information and technologies;

[(2) expand road weather research and development efforts to enhance roadway safety, capacity, and efficiency while minimizing environmental impacts; and

[(3) promote technology transfer of effective road weather scientific and technological advances.

[(b) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall consult with the National Oceanic and Atmospheric Administration, the National Science Foundation, the American Association of State Highway and Transportation Officials, nonprofit organizations, and the private sector.

[(c) CONTENTS.—The program established under this section shall solely carry out research and development called for in the National Research Council's report entitled "A Research Agenda for

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Improving Road Weather Services". Such research and development includes—

[(1) integrating existing observational networks and data management systems for road weather applications;

[(2) improving weather modeling capabilities and forecast tools, such as the road surface and atmospheric interface;

[(3) enhancing mechanisms for communicating road weather information to users, such as transportation officials and the public; and

[(4) integrating road weather technologies into an information infrastructure.

[(d) ACTIVITIES.—In carrying out this section, the Secretary shall—

[(1) enable efficient technology transfer;

[(2) improve education and training of road weather information users, such as State and local transportation officials and private sector transportation contractors; and

[(3) coordinate with transportation weather research programs in other modes, such as aviation.

[(e) FUNDING.—

[(1) IN GENERAL.—In awarding funds under this section, the Secretary shall give preference to applications with significant matching funds from non-Federal sources.

[(2) FUNDS FOR ROAD WEATHER RESEARCH AND DEVELOPMENT.—Of the amounts made available by section 5101(a)(5) of this Act, \$5,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

[SEC. 5309. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

[(a) ESTABLISHMENT.—The Secretary shall establish 4 centers for surface transportation excellence.

[(b) GOALS.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.

[(c) ROLE OF CENTERS.—To achieve the goals set forth in subsection (b), the Secretary shall establish the 4 centers as follows:

[(1) ENVIRONMENTAL EXCELLENCE.—To provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in planning and delivering environmentally sound surface transportation projects.

[(2) SURFACE TRANSPORTATION SAFETY.—To develop and disseminate advanced transportation safety techniques and innovations in both rural areas and urban communities. The center will use a controlled access highway with state-of-the-art features, to test safety devices and techniques that enhance driver performance, examine advanced pavement and lighting systems, and develop techniques to address older driver and fatigue driver issues.

[(3) RURAL SAFETY.—To provide research, training, and outreach on innovative uses of technology to enhance rural safety and economic development, assess local community needs to improve access to mobile emergency treatment, and

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develop online and seminar training needs of rural transportation practitioners and policy-makers.

[(4) PROJECT FINANCE.—To provide support to State transportation departments in the development of finance plans and project oversight tools and to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds.

[(d) FUNDING.—

[(1) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, \$3,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

[(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1) the Secretary shall use such amounts as follows:

[(A) \$1,250,000 to establish the Center for Environmental Excellence.

[(B) \$750,000 to establish the Center for Excellence in Surface Transportation Safety at the Virginia Tech Transportation Institute.

[(C) \$875,000 to establish the Center for Excellence in Rural Safety at the Hubert H. Humphrey Institute, Minnesota.

[(D) \$875,000 to establish the Center for Excellence in Project Finance.

[(3) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.

[(e) PROGRAM ADMINISTRATION.—

[(1) COMPETITION.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary, or receiving a grant to perform research or provide technical assistance under subsections (d)(2)(A) and (d)(2)(D) shall be selected on a competitive basis, to the maximum extent practicable.

[(2) STRATEGIC PLAN.—The Secretary shall require each center to develop a multiyear strategic plan that describes—

[(A) the activities to be undertaken; and

[(B) how the work of the center is coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this title. Such plans shall be submitted to the Secretary by January 1, 2006, and each year thereafter.

[SEC. 5310. DEFINITIONS.

[In this subtitle, the following definitions apply:

[(1) INCIDENT.—The term "incident" means a crash, a natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

[(2) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term "intelligent transportation infrastructure" means fully in-

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tegrated public sector intelligent transportation system components, as defined by the Secretary.

[(3) 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.

[(4) 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.

[(5) PROJECT.—The term “project” means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

[(6) STANDARD.—The term “standard” means a document that—

[(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

[(B) may support the national architecture and promote—

[(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

[(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

[(7) STATE.—The term “State” has the meaning given the term under section 101 of title 23, United States Code.

[(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term “transportation systems management and operations” has the meaning given the term under section 101(a) of title 23, United States Code.]

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### Subtitle E—Other Programs

#### [SEC. 5501. TRANSPORTATION SAFETY INFORMATION MANAGEMENT SYSTEM PROJECT.

[(a) IN GENERAL.—The Secretary shall fund and carry out a project to further the development of a comprehensive transpor-

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tation safety information management system (in this section referred to as "TSIMS").

[(b) PURPOSES.—The purpose of the TSIMS project is to further the development of a software application to provide for the collection, integration, management, and dissemination of safety data from and for use among State and local safety and transportation agencies, including driver licensing, vehicle registration, emergency management system, injury surveillance, roadway inventory, and motor carrier databases.

[(c) FUNDING.—

[(1) FEDERAL FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$1,000,000 for fiscal years 2006 and 2007 shall be available to carry out the TSIMS project under this section.

[(2) STATE CONTRIBUTION.—The sums authorized in paragraph (1) are intended to supplement voluntary contributions to be made by State departments of transportation and other State safety and transportation agencies.]

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**[SEC. 5506. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES.**

[(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.

[(b) PROGRAM.—

[(1) NATIONAL POLICY.—The Secretary shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

[(2) POLICY IMPLEMENTATION.—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under paragraph (1).

[(c) COOPERATION.—The Secretary shall carry out this section in cooperation with a consortium of university research centers.

[(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, \$7,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

**[SEC. 5507. RURAL INTERSTATE CORRIDOR COMMUNICATIONS STUDY.**

[(a) STUDY.—The Secretary, in cooperation with the Secretary of Commerce, State departments of transportation, and other appropriate State, regional, and local officials, shall conduct a study on the feasibility of installing fiber optic cabling and wireless communication infrastructure along multistate Interstate System route corridors for improved communications services to rural communities along such corridors.

[(b) CONTENTS OF STUDY.—In conducting the study, the Secretary shall identify—

[(1) impediments to installation of the infrastructure described in subsection (a) along multistate Interstate System

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route corridors and to connecting such infrastructure to the rural communities along such corridors;

[(2) the effective geographic range of such infrastructure;

[(3) potential opportunities for the private sector to fund, wholly or partially, the installation of such infrastructure;

[(4) potential benefits fiber optic cabling and wireless communication infrastructure may provide to rural communities along such corridors, including the effects of the installation of such infrastructure on economic development, deployment of intelligent transportation systems technologies and applications, homeland security precaution and response, and education and health systems in those communities;

[(5) rural broadband access points for such infrastructure;

[(6) areas of environmental conflict with such installation;

[(7) real estate ownership issues relating to such installation;

[(8) preliminary design for placement of fiber optic cable and wireless towers;

[(9) monetary value of the rights-of-way necessary for such installation;

[(10) applicability and transferability of the benefits of such installation to other rural corridors; and

[(11) safety and other operational issues associated with the installation and maintenance of fiber optic cabling and wire infrastructure within Interstate System rights-of-way and other publicly owned rights-of-way.

[(c) CORRIDOR LOCATIONS.—The study required under subsection (a) shall be conducted for corridors along—

[(1) Interstate Route 90 through rural Wisconsin, southern Minnesota, northern Iowa, and South Dakota;

[(2) Interstate Route 20 through Alabama, Mississippi, and northern Louisiana;

[(3) Interstate Route 91 through Vermont, New Hampshire, and Massachusetts; and

[(4) any other rural corridor the Secretary considers appropriate.

[(d) REPORT TO CONGRESS.—Not later than September 30, 2007, the Secretary shall submit to Congress a report on the results of the study, including any recommendations of the Secretary.

[(e) FEDERAL SHARE.—The Federal share of the cost of the study shall be 100 percent.

[(f) FUNDING.—Of the amounts made available under section 5101(a)(5) of this Act, \$1,000,000 shall be available for fiscal year 2006, and \$2,000,000 shall be available for fiscal year 2007 to carry out this section.]

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**[SEC. 5511. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.**

[(a) GRANTS.—The Secretary shall provide grants to the Oklahoma Transportation Center for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

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[(b) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$1,408,000 for each of fiscal years 2006 and 2007 shall be available to carry out this section.]

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[SEC. 5513. RESEARCH GRANTS.

[(a) THERMAL IMAGING.—

[(1) IN GENERAL.—The Secretary shall make a grant to carry out a demonstration project that uses a thermal imaging inspection system (TIIS) that leverages state-of-the-art thermal imagery technology, integrated with signature recognition software, providing the capability to identify, in real time, faults and failures in tires, brakes and bearings mounted on commercial motor vehicles.

[(2) USE OF FUNDS.—Funds shall be used—

[(A) to employ a TIIS in a field environment, along the Interstate, to further assess the system's ability to identify faults in tires, brakes, and bearings mounted on commercial motor vehicles;

[(B) to establish, through statistical analysis, the probability of failure for each component; and

[(C) to develop and integrate a predictive tool into the TIIS, which identifies an impending tire, brake, or bearing failure and provides the use of a time frame in which this failure may occur.

[(3) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$2,000,000 in fiscal year 2006 shall be available to carry out this subsection.

[(b) TRANSPORTATION INJURY RESEARCH.—

[(1) GRANT.—The Secretary shall make a grant to maintain a center for transportation injury research at the Calspan University of Buffalo Research Center, through the North Campus facility located in Amherst, New York, and affiliated with the State University of New York at Buffalo.

[(2) RECOUP COSTS.—Notwithstanding current law, Federal regulations, or Office of Management and Budget circulars or guidance, the Center shall be permitted to recoup direct and indirect costs and apply a 7 percent fee to the grant made under this subsection.

[(3) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$1,250,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

[(c) TECHNOLOGY TRANSFER GRANT.—

[(1) GRANT.—The Secretary shall make grants to the Argonne National Laboratory-Advanced Transportation Technology Center for the purpose of conducting transportation research and demonstration projects that would lead to the exchange of research results with the private sector and collaboration with universities at a centralized location conducive for technology transfer.

[(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$4,000,000 in each of fiscal years

2006 through 2009 shall be available to carry out this subsection.

[(d) APPALACHIAN REGIONAL COMMISSION.—

[(1) GRANT.—The Secretary shall make a grant to the Appalachian Regional Commission to conduct a feasibility study for the creation of a system of inland ports and distribution centers in Appalachia.

[(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$500,000 in fiscal year 2006 shall be available to carry out this subsection.

[(e) AUTOMOBILE ACCIDENT INJURY RESEARCH.—

[(1) GRANTS.—The Secretary shall make a grant to the Forsyth Institute for research and technology development for preventing and minimizing head, craniofacial, and spinal cord injuries resulting from automobile accidents.

[(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

[(f) RURAL TRANSPORTATION RESEARCH.—

[(1) GRANTS.—The Secretary shall make grants to the New England Transportation Institute in White River Junction, Vermont for rural transportation research.

[(2) FUNDING.—

[(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, \$1,000,000 for fiscal year 2006 shall be available to carry out this subsection and shall remain available until expended.

[(B) COST-SHARING.—

[(i) FEDERAL SHARE.—The Federal share of the cost of activities carried out under this subsection shall be 80 percent.

[(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal sponsor for activities under this subsection shall be credited to the non-Federal share.

[(g) RURAL TRANSPORTATION RESEARCH INITIATIVE.—

[(1) GRANTS.—For each of fiscal years 2006 through 2009, the Secretary shall provide a grant to the Upper Great Plains Transportation Institute at North Dakota State University for use in carrying out the Rural Transportation Research Initiative.

[(2) FUNDING.—

[(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, \$500,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, and shall remain available until expended.

[(B) COST-SHARING.—

[(i) FEDERAL SHARE.—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.

[(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal project sponsor for any activity under this subsection shall be credited to the non-Federal share.

**[(h) HYDROGEN-POWERED TRANSPORTATION RESEARCH INITIATIVE.—**

**[(1) GRANTS.—**For each of fiscal years 2006 through 2009, the Secretary shall provide a grant to the University of Montana for use in carrying out the Hydrogen-Powered Transportation Research Initiative.

**[(2) FUNDING.—**

**[(A) IN GENERAL.—**Of the amounts made available by section 5101(a)(1) of this Act, \$750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, and shall remain available until expended.

**[(B) COST-SHARING.—**

**[(i) FEDERAL SHARE.—**The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.

**[(ii) NON-FEDERAL SHARE.—**The fair market value of any materials or services provided by the non-Federal project sponsor for an activity under this subsection shall be credited to the non-Federal share.

**[(i) COLD REGION AND RURAL TRANSPORTATION RESEARCH, MAINTENANCE, AND OPERATIONS.—**

**[(1) GRANTS.—**The Secretary shall provide grants to the Western Transportation Institute at Montana State University, for use in developing a research facility in Lewistown, Montana, for basic and applied research and testing on surface transportation issues facing rural and cold regions.

**[(2) FUNDING.—**

**[(A) IN GENERAL.—**Of the amounts made available by section 5101(a)(1) of this Act, \$1,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, to remain available until expended.

**[(B) COST-SHARING.—**

**[(i) FEDERAL SHARE.—**The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.

**[(ii) NON-FEDERAL SHARE.—**The fair market value of any materials or services provided by the non-Federal project sponsor for an activity under this section shall be credited to the non-Federal share.

**[(j) ADVANCED VEHICLE TECHNOLOGY.—**

**[(1) GRANT.—**The Secretary shall make a grant to the University of Kansas Transportation Research Institute for research and development of advanced vehicle technology concepts, focused on vehicle emissions, fuel cells and catalytic processes, and intelligent transportation systems.

**[(2) FUNDING.—**Of the amounts made available under section 5101(a)(1) of this Act, \$2,500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

**[(k) ASPHALT RESEARCH CONSORTIUM.—**

**[(1) GRANT.—**The Secretary shall make a grant to the asphalt research consortium lead by the Western Research Institute to research flexible pavement and extending the life-cycle of asphalts.

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[(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, \$7,500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.

[(1) RENEWABLE TRANSPORTATION SYSTEMS RESEARCH.—

[(1) GRANTS.—The Secretary shall make grants to the University of Vermont for research, development and field testing of hydrogen fuel cell and biofuel transportation technology.

[(2) FUNDING.—

[(A) IN GENERAL.—Of the amounts made available for section 5101(a)(1) of this Act, \$1,000,000 for fiscal year 2006 to remain available until expended.

[(B) COST-SHARING.—

[(i) FEDERAL SHARE.—The Federal Share of the cost of activities carried out under this section shall be 80 percent.

[(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal sponsor for activities under this section shall be credited to the non-Federal share.

[(m) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this section shall be 80 percent unless otherwise expressly provided by this section or otherwise determined by the Secretary.]

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### TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY

\* \* \* \* \*

#### SEC. 6010. ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS.

(a) \* \* \*

\* \* \* \* \*

(c) INTELLIGENT TRANSPORTATION INFRASTRUCTURE AND SYSTEMS DEFINED.—In this section, the term “intelligent transportation infrastructure and systems” means intelligent transportation infrastructure and intelligent transportation systems, as such terms are defined in [subtitle C of title V of this Act] section 501 of title 23, United States Code.

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TITLE 49, UNITED STATES CODE

\* \* \* \* \*

SUBTITLE I—DEPARTMENT OF TRANSPORTATION

\* \* \* \* \*

CHAPTER 1—ORGANIZATION

\* \* \* \* \*

§ 103. Federal Railroad Administration

(a) \* \* \*

\* \* \* \* \*

(1) IMPROVING REGULATION AND REGULATORY REVIEW.—

(1) IN GENERAL.—Before any final regulation within the jurisdiction of the Administration is issued, the Administrator shall make all preliminary and final determinations based on evidence and consider, in addition to other applicable considerations, the following:

(A) The legal authority under which a rule may be proposed, including whether a rulemaking is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rulemaking.

(B) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.

(C) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency's jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.

(D) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.

(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

(1)

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(G) Means to increase the cost-effectiveness of any Federal response.

(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

(i) the alternative of no Federal response;

(ii) amending or rescinding existing rules;

(iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

(iv) potential responses that—

(I) specify performance objectives rather than conduct or manners of compliance;

(II) establish economic incentives to encourage desired behavior;

(III) provide information upon which choices can be made by the public; or

(IV) incorporate other innovative alternatives rather than agency actions that specify conduct or manners of compliance.

(2) PUBLIC COMMENT.—The Administrator shall solicit and take into consideration public comment on the subjects described in subparagraphs (A) through (I) of paragraph (1) before issuance of a final regulation described in paragraph (1).

(3) AGENCY STATEMENTS.—

(A) IN GENERAL.—The Administrator shall follow applicable rulemaking procedures under section 553 of title 5 before issuing a binding obligation applicable to recipients of Federal assistance.

(B) BINDING OBLIGATION DEFINED.—In this paragraph, the term “binding obligation” means a substantive policy statement, rule, or guidance document issued by the Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.

\* \* \* \* \*

§ 111. Bureau of Transportation Statistics

(a) \* \* \*

\* \* \* \* \*

(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary’s senior advisor on data and statistics and shall be responsible for carrying out the following duties:

(1) \* \* \*

\* \* \* \* \*

[(5) TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transpor-

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tation statistics on the performance and impacts of the national transportation system, including statistics on—

- [(A) productivity in various parts of the transportation sector;
- [(B) traffic flows for all modes of transportation;
- [(C) other elements of the intermodal transportation database established under subsection (e);
- [(D) travel times and measures of congestion;
- [(E) vehicle weights and other vehicle characteristics;
- [(F) demographic, economic, and other variables influencing traveling behavior, including choice of transportation mode and goods movement;
- [(G) transportation costs for passenger travel and goods movement;
- [(H) availability and use of mass transit (including the number of passengers served by each mass transit authority) and other forms of for-hire passenger travel;
- [(I) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;
- [(J) safety and security for travelers, vehicles, and transportation systems;
- [(K) consequences of transportation for the human and natural environment;
- [(L) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g); and
- [(M) transportation-related variables that influence the domestic economy and global competitiveness.]

(5) *TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—*

- (A) *transportation safety across all modes and intermodally;*
- (B) *the state of good repair of United States transportation infrastructure;*
- (C) *the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g);*
- (D) *economic efficiency across the entire transportation sector;*
- (E) *the effects of the transportation system on global and domestic economic competitiveness;*
- (F) *demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;*
- (G) *transportation-related variables that influence the domestic economy and global competitiveness;*
- (H) *economic costs and impacts for passenger travel and freight movement;*
- (I) *intermodal and multimodal passenger movement; and*
- (J) *consequences of transportation for the environment.*

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[(d) INFORMATION NEEDS ASSESSMENT.—

[(1) IN GENERAL.—Not later than 60 days after the date of enactment of the SAFETEA-LU, the Secretary shall enter into an agreement with the National Research Council to develop and publish a National transportation information needs assessment (referred to in this subsection as the “assessment”). The assessment shall be submitted to the Secretary and the appropriate committees of Congress not later than 24 months after such agreement is entered into.

[(2) CONTENT.—The assessment shall—

[(A) identify, in order of priority, the transportation data that is not being collected by the Bureau, operating administrations of the Department, or other Federal, State, or local entities, but is needed to improve transportation decisionmaking at the Federal, State, and local levels and to fulfill the requirements of subsection (c)(5);

[(B) recommend whether the data identified in subparagraph (A) should be collected by the Bureau, other parts of the Department, or by other Federal, State, or local entities, and whether any data is of a higher priority than data currently being collected;

[(C) identify any data the Bureau or other Federal, State, or local entity is collecting that is not needed;

[(D) describe new data collection methods (including changes in surveys) and other changes the Bureau or other Federal, State, or local entity should implement to improve the standardization, accuracy, and utility of transportation data and statistics; and

[(E) estimate the cost of implementing any recommendations.

[(3) CONSULTATION.—In developing the assessment, the National Research Council shall consult with the Department’s Advisory Council on Transportation Statistics and a representative cross-section of transportation community stakeholders as well as other Federal agencies, including the Environmental Protection Agency, the Department of Energy, and the Department of Housing and Urban Development.

[(4) REPORT TO CONGRESS.—Not later than 180 days after the date on which the National Research Council submits the assessment under paragraph (1), the Secretary shall submit a report to Congress that describes—

[(A) how the Department plans to fill the data gaps identified under paragraph (2)(A);

[(B) how the Department plans to stop collecting data identified under paragraph (2)(C);

[(C) how the Department plans to implement improved data collection methods and other changes identified under paragraph (2)(D);

[(D) the expected costs of implementing subparagraphs (A), (B), and (C) of this paragraph;

[(E) any findings of the assessment under paragraph (1) with which the Secretary disagrees, and why; and

[(F) any proposed statutory changes needed to implement the findings of the assessment under paragraph (1).]

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(d) ACCESS TO FEDERAL DATA.—In carrying out subsection (c), the Director shall be provided access to all transportation and transportation-related information and data, including safety-related data, held by an agency of the Department of Transportation and, upon written request and subject to any statutory or regulatory restrictions, to all such data held by any other Federal Government agency, that is germane to carrying out subsection (c).

\* \* \* \* \*

(n) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the [Mass Transit] Alternative Transportation Account) for the purpose of reimbursing the Bureau for the expenses.

(o) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

(1) \* \* \*

(2) FUNCTION.—The function of the advisory council established under this subsection is to—

(A) advise the Director on the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department; and

[(B) provide input to and review the report to Congress under subsection (d)(4); and]

[(C)] (B) advise the Director on methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

\* \* \* \* \*

§ 112. Research and Innovative Technology Administration

(a) \* \* \*

\* \* \* \* \*

(f) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2013 through 2016, the Administrator may expend not more than 1 1/2 percent of the amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration to carry out the coordination, evaluation, and oversight of the programs administered by the Administration.

(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

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- (B) Federal laboratories; and
- (C) other Federal agencies.

(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.

(3) FEDERAL SHARE.—

(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

(B) EXCEPTION.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

(C) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

\* \* \* \* \*

**CHAPTER 3—GENERAL DUTIES AND POWERS**

**SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION**

Sec.  
301. Leadership, consultation, and cooperation.  
\* \* \* \* \*

**SUBCHAPTER I—DUTIES OF THE SECRETARY OF TRANSPORTATION**

\* \* \* \* \*  
310. Budget justification.  
\* \* \* \* \*

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

(a) \* \* \*  
\* \* \* \* \*

(e) 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

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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).

\* \* \* \* \*

**§ 310. Budget justification**

The Secretary of Transportation and the head of each modal administration of the Department of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate a budget justification concurrently with the President's annual budget submission to Congress.

\* \* \* \* \*

**CHAPTER 5—SPECIAL AUTHORITY**

\* \* \* \* \*

**SUBCHAPTER II—PENALTIES**

**§ 521. Civil penalties**

(a) \* \* \*

(b) VIOLATIONS RELATING TO COMMERCIAL MOTOR VEHICLE SAFETY REGULATION AND OPERATORS.—

(1) NOTICE.—

(A) IN GENERAL.—If the Secretary finds that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31306, 31306a, 31310(g)(1)(A), or 31502 of this title, or a violation of a regulation issued under any of those provisions, has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall specify the proposed civil penalty, if any, and suggest actions which might be taken in order to abate the violation. The notice shall indicate that the violator may, within 15 days of service, notify the Secretary of the violator's intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

\* \* \* \* \*

(2) CIVIL PENALTY.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31306, 31306a, or 31502 of this title shall be liable to the United States for a civil penalty in an amount not

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to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding \$2,500.

(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31306, 31306a, or 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

(i) \* \* \*

\* \* \* \* \*

(5)(A) If, upon inspection or investigation, the Secretary determines that a violation of a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31306, 31306a, or 31502 of this title or a regulation issued under any of those provisions, or combination of such violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer's commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of the order, opportunity for review shall be provided in accordance with section 554 of title 5, except that such review shall occur not later than 10 days after issuance of such order.

\* \* \* \* \*

(6) CRIMINAL PENALTIES.—

(A) IN GENERAL.—Any person who knowingly and willfully violates any provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31306, 31306a, or 31502 of this title, or a regulation issued under any of those provisions shall, upon conviction, be subject for each offense to a fine not to exceed \$25,000 or imprisonment for a term not to exceed one year, or both, except that, if such violator is an employee, the violator shall only be subject to penalty if, while operating a commercial motor vehicle, the violator's activities have led or could have led to death or serious injury, in which case the violator shall be subject, upon conviction, to a fine not to exceed \$2,500.

\* \* \* \* \*

**SUBTITLE II—OTHER GOVERNMENT AGENCIES**

\* \* \* \* \*

**CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD**

\* \* \* \* \*

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SUBCHAPTER III—AUTHORITY

\* \* \* \* \*

§ 1139. Assistance to families of passengers involved in rail passenger accidents

(a) IN GENERAL.—As soon as practicable after being notified of a rail passenger accident within the United States involving a rail passenger carrier and resulting in a major loss of life, the Chairman of the National Transportation Safety Board shall—

(1) designate and publicize the name and [phone number] telephone number of a director of family support services who shall be an employee of the Board and shall be responsible for acting as a point of contact within the Federal Government for the families of passengers involved in the accident and a liaison between the rail passenger carrier and the families; and

(2) designate an independent nonprofit organization, with experience in disasters and [post trauma communication with families] post-trauma communication with families, which shall have primary responsibility for coordinating the emotional care and support of the families of passengers involved in the accident.

\* \* \* \* \*

(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

(1) \* \* \*

(2) BOARD ASSISTANCE.—If this section does not apply to a [railroad passenger accident] rail passenger accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.

\* \* \* \* \*

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

Chapter	Sec.
51. Transportation of Hazardous Material .....	5101
52. Transportation Planning .....	5201
* * * * *	

CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL

§ 5101. Purpose

The purpose of this chapter is to protect against the risks to life, property, and the environment [that are inherent] in the transportation of hazardous material in intrastate, interstate, and foreign commerce.

§ 5102. Definitions

In this chapter—

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(1) \* \* \*

\* \* \* \* \*

(4) "hazmat employer"—

(A) means a person—

(i) who—

(I) employs [or uses] at least 1 hazmat employee on a full time, part time, or temporary basis; or

\* \* \* \* \*

[(13) "transports" or "transportation" means the movement of property and loading, unloading, or storage incidental to the movement.]

(13) "transports" or "transportation"—

(A) means the movement of property and loading, unloading, handling, or storage incidental to the movement;

(B) includes all activities related to—

(i) loading or unloading packaged or containerized hazardous material, such as portable tanks, cylinders, and intermediate bulk containers, onto a transport vehicle, rail car, aircraft, or vessel at its origin, during en route movement, or at its destination; or

(ii) loading or unloading a hazardous material into or from a bulk packaging with a capacity greater than 3,000 liters, such as a portable tank, cargo tank, or rail tank car, at its origin, during en route movement, or at its destination; and

(C) includes storage of a hazardous material from the time the hazardous material is loaded for purposes of movement until the hazardous material is unloaded at its destination, including during en route movement.

§ 5103. General regulatory authority

(a) \* \* \*

(b) REGULATIONS FOR SAFE TRANSPORTATION.—(1) The Secretary shall prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The regulations—

(A) apply to a person who—

(i) \* \* \*

\* \* \* \* \*

(vi) certifies compliance with any requirement under this chapter; [or]

(vii) provides hazardous material transportation emergency response information services required or governed by regulations prescribed under this chapter; or

[(vii)] (viii) misrepresents whether such person is engaged in any activity under clause (i) through [(vi)] (vii); and

(B) shall govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate [.] and

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(C) shall govern the procedures and criteria used by the Secretary for determining the fitness of a person applying for an approval or a special permit under the regulations.

\* \* \* \* \*

(3) Before any final regulation within the jurisdiction of the Secretary is issued, the Secretary shall make all preliminary and final determinations based on evidence and consider, in addition to other applicable considerations, the following:

(A) The legal authority under which a rule may be proposed, including whether a rulemaking is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rulemaking.

(B) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.

(C) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency's jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.

(D) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.

(E) The best reasonably obtainable scientific, technical, and other information related to the need for, and consequences of, the rule.

(F) The potential costs and benefits, including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness.

(G) Means to increase the cost-effectiveness of any Federal response.

(H) Incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.

(I) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—

- (i) the alternative of no Federal response;
- (ii) amending or rescinding existing rules;
- (iii) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and

(iv) potential responses that—

- (I) specify performance objectives rather than conduct or manners of compliance;
- (II) establish economic incentives to encourage desired behavior;
- (III) provide information upon which choices can be made by the public; or

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(IV) incorporate other innovative alternatives rather than agency actions that specify conduct or manners of compliance.

(4) The Secretary shall solicit and take into consideration public comment on the subjects described in subparagraphs (A) through (I) of paragraph (3) before issuance of a final regulation described in paragraph (3).

(5) The Secretary shall follow applicable rulemaking procedures under section 553 of title 5 before issuing a binding obligation applicable to recipients of Federal assistance. In this paragraph, the term "binding obligation" means a substantive policy statement, rule, or guidance document issued by the Secretary that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.

(6) In considering whether to incorporate by reference any publication in prescribing regulations, the Secretary shall—

(A) consider—

- (i) the cost of such publication;
  - (ii) the broadness of its applicability;
  - (iii) the cost imposed on the public in acquiring such publication; and
  - (iv) other alternatives to incorporation by reference;
- and

(B) either incorporate by reference the publication or use the alternative that meets the Department of Transportation's safety objectives in the most cost-effective manner.

\* \* \* \* \*

**§ 5105. Transporting certain highly radioactive material**

(a) \* \* \*

\* \* \* \* \*

[(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—(1) Not later than November 16, 1991, the Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying with this chapter and applicable United States motor carrier safety laws and regulations. The Secretary may require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures.

[(2) The Secretary may allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter. The inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle apply to an individual conducting an inspection under this paragraph.]

(d) INSPECTIONS OF MOTOR VEHICLES TRANSPORTING CERTAIN MATERIAL.—

(1) REQUIREMENT.—The Secretary shall require by regulation that before each use of a motor vehicle to transport a highway-route-controlled quantity of radioactive material in commerce, the vehicle shall be inspected and certified as complying

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with this chapter and applicable United States motor carrier safety laws and regulations.

(2) TYPE OF INSPECTOR.—In carrying out paragraph (1), the Secretary may—

(A) require that the inspection be carried out by an authorized United States Government inspector or according to appropriate State procedures; or

(B) allow a person, transporting or causing to be transported a highway-route-controlled quantity of radioactive material, to inspect the motor vehicle used to transport the material and to certify that the vehicle complies with this chapter.

(3) QUALIFICATION REQUIREMENTS.—An individual conducting an inspection under paragraph (2)(B) shall be in compliance with the inspector qualification requirements the Secretary prescribes for an individual inspecting a motor vehicle.

(4) PREEMPTION.—Each State that a motor vehicle transporting a highway-route-controlled quantity of radioactive material in commerce enters shall recognize the inspection and certification required by paragraph (1) and may not require a new inspection at an equivalent level and certification except as provided in paragraph (5).

(5) CHANGED CONDITION.—If an en route change to the condition of the cargo, the driver, the motor vehicle, or the operation of the motor vehicle invalidates the certification under paragraph (1), the State where such change is discovered may require a new inspection and certification under such paragraph.

\* \* \* \* \*

**§ 5107. Hazmat employee training requirements and grants**

(a) \* \* \*

\* \* \* \* \*

**[(e) TRAINING GRANTS.—**

**[(1) IN GENERAL.—**Subject to the availability of funds under section 5128(c), the Secretary shall make grants under this subsection—

**[(A)** for training instructors to train hazmat employees; and

**[(B)** to the extent determined appropriate by the Secretary, for such instructors to train hazmat employees.

**[(2) ELIGIBILITY.—**A grant under this subsection shall be made to a nonprofit hazmat employee organization that demonstrates—

**[(A)** expertise in conducting a training program for hazmat employees; and

**[(B)** the ability to reach and involve in a training program a target population of hazmat employees.]

**[(f)] (e) TRAINING OF CERTAIN EMPLOYEES.—**The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness and familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations.

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[(g)] (f) RELATIONSHIP TO OTHER LAWS.—(1) \* \* \*

(2) An action of the Secretary under subsections (a)-(d) of this section [and section 5106] is not an exercise, under section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

[(h) EXISTING EFFORT.—No grant under subsection (e) shall supplant or replace existing employer-provided hazardous materials training efforts or obligations.]

§ 5108. Registration

(a) \* \* \*

\* \* \* \* \*

(g) FEES.—(1) \* \* \*

(2)(A) In addition to a fee established under paragraph (1) of this subsection, the Secretary shall establish and impose by regulation and collect an annual fee. Subject to subparagraph (B) of this paragraph, the fee shall [be at least \$250 but not more than] not exceed \$3,000 from each person required to file a registration statement under this section. The Secretary shall determine the amount of the fee under this paragraph on at least one of the following:

(i) \* \* \*

\* \* \* \* \*

(viii) the amount to be made available to carry out [sections 5108(g)(2), 5115,] this paragraph and sections 5115 and 5116 of this title.

\* \* \* \* \*

(D) In establishing and collecting a fee under subparagraph (A), the Secretary may not consider whether a person has or is likely to apply for a special permit or approval, nor is the Secretary authorized to establish a separate fee in order to apply for or receive a special permit or approval.

\* \* \* \* \*

§ 5109. Motor carrier safety permits

(a) \* \* \*

(b) APPLICABLE TRANSPORTATION.—The Secretary shall prescribe by regulation the hazardous material and amounts of hazardous material to which this section applies. However, this section shall apply at least to transportation by a motor carrier, in amounts the Secretary establishes, of—

(1) a [class A or B] division 1.1, 1.2, or 1.3 explosive;

\* \* \* \* \*

(f) [SHIPPER] OFFEROR RESPONSIBILITY.—A person offering hazardous material for motor vehicle transportation in commerce may offer the material to a motor carrier only if the carrier has a safety permit issued under this section authorizing the transportation.

\* \* \* \* \*

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[(h) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section not later than November 16, 1991.]

\* \* \* \* \*

§ 5116. Planning and training grants, monitoring, and review

(a) \* \* \*

(b) TRAINING GRANTS.—(1) \* \* \*

\* \* \* \* \*

(4) The Secretary shall allocate amounts made available for grants under this subsection and subsection (a) for a fiscal year among eligible States and Indian tribes based on the needs of the States and tribes for emergency response planning and training. In making a decision about those needs, the Secretary shall consider—

(A) \* \* \*

\* \* \* \* \*

(E) other factors the Secretary decides are appropriate to carry out this subsection and subsection (a).

[(c) COMPLIANCE WITH CERTAIN LAW.—The Secretary may make a grant to a State under this section in a fiscal year only if the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003).]

(c) COMPLIANCE WITH CERTAIN LAW.—The Secretary may make a grant to a State or Indian tribe under this section in a fiscal year only if—

(1) the State certifies that the State complies with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001, 11003); and

(2) the State or Indian tribe certifies to the Secretary that such State or Indian tribe is in compliance with section 5125(f).

\* \* \* \* \*

(j) SUPPLEMENTAL TRAINING GRANTS.—

(1) In order to further the purposes of subsection (b), the Secretary shall, subject to the availability of [funds, make grants to national nonprofit employee organizations engaged solely in fighting fires for] funds and through a competitive process, make grants to national nonprofit fire service organizations for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents.

\* \* \* \* \*

(3) Funds granted to an organization under this subsection shall only be used—

(A) to [train] provide portable training for instructors to conduct hazardous materials response training programs;

\* \* \* \* \*

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(4) The Secretary may only make a grant to an organization under this subsection in a fiscal year if the organization enters into an agreement with the Secretary to [train] provide portable training for instructors to conduct hazardous materials response training programs in such fiscal year that will use—

(A) \* \* \*

\* \* \* \* \*  
for training individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials. Such agreement also shall provide that training courses shall comply with national consensus standards for hazardous material response and be open to all such individuals on a nondiscriminatory basis.

\* \* \* \* \*  
(k) REPORTS.—The Secretary shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and make available to the public information on the allocation and uses of the [planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107] grants allocated under subsections (a), (b), and (j). The report shall identify the ultimate recipients of planning and training grants and include a detailed accounting of all grant expenditures by grant recipients, the number of persons trained under the grant programs, and an evaluation of the efficacy of planning and training programs carried out.

**§ 5117. Special permits and exclusions**

[(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—(1) As provided under procedures prescribed by regulation.]

(a) AUTHORITY TO ISSUE SPECIAL PERMITS.—

(1) IN GENERAL.—As provided under procedures and criteria prescribed by regulation in accordance with section 553 of title 5, the Secretary may issue, modify, or terminate a special permit authorizing a variance from this chapter or a regulation prescribed under section 5103(b), 5104, 5110, or 5112 of this title to a person performing a function regulated by the Secretary under section 5103(b)(1) in a way that achieves a safety level—

(A) \* \* \*

\* \* \* \* \*  
(2) REQUIREMENTS.—The Secretary shall ensure that the procedures and criteria prescribed under paragraph (1) provide adequate consistency, predictability, and transparency in making the determinations to issue, modify, or terminate a special permit.

[(2) A special permit]

(3) EFFECTIVE PERIOD.—A special permit issued under this section shall be effective for an initial period of not more than 2 years and may be renewed by the Secretary upon application

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for successive periods of not more than 4 years each or, in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.

\* \* \* \* \*

(f) *LIMITATION ON DENIAL.*—The Secretary may not deny an application for a modification or renewal of a special permit or an application for party status to an existing special permit for the sole reason that the applicant has a hazardous material out-of-service percentage of greater than the national average, according to the safety and fitness records maintained by the Federal Motor Carrier Safety Administration.

(g) *INCORPORATION INTO REGULATION.*—

(1) *IN GENERAL.*—Not later than 1 year after the date on which a special permit has been in continuous effect for a 6-year period, the Secretary shall develop and implement a rulemaking pursuant to section 5103 to incorporate the special permit into regulation if the special permit—

- (A) concerns a matter of general applicability;
- (B) has future effect; and
- (C) is consistent with hazardous material safety.

(2) *INTENT.*—Nothing in paragraph (1) limits the Secretary from incorporating a special permit into regulation at any time before the deadline set by paragraph (1).

(3) *OLDER SPECIAL PERMITS.*—Not later than 3 years after the date of enactment of this subsection, the Secretary shall finalize a rulemaking pursuant to section 5103 to incorporate into regulation any special permit that concerns a matter of general applicability, has future effect, is consistent with hazardous material safety, and has been in continuous effect for more than a 6-year period as of the date of enactment of this subsection.

\* \* \* \* \*

**§ 5119. Uniform forms and procedures**

[(a) *ESTABLISHMENT OF WORKING GROUP.*—The Secretary shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.

[(b) *PURPOSE OF WORKING GROUP.*—The purpose of the working group shall be to develop uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.

[(c) *LIMITATION ON WORKING GROUP.*—The working group may not propose to define or limit the amount of a fee a State may impose or collect.

[(d) *PROCEDURE.*—The Secretary shall develop a procedure for the working group to employ in developing recommendations for the Secretary to harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous

materials, with special attention paid to each State's unique safety concerns and interest in maintaining strong hazmat safety standards.

[(e) REPORT OF WORKING GROUP.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).

[(f) REGULATIONS.—Not later than 18 months after the date the working group's report is delivered to the Secretary, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate. In developing such regulations, the Secretary shall consider the State needs associated with the transition to and implementation of a uniform forms and procedures program.

[(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).]

(a) *UNIFORM MOTOR CARRIER PERMIT PROGRAM DEFINED.*—*In this section, the term "Uniform Motor Carrier Permit Program" means the State-based, reciprocal program of uniform forms and procedures for registering and permitting persons who transport hazardous material by motor vehicle developed and recommended by the Alliance for Uniform Hazmat Transportation Procedures, including any superseding amendments or revisions adopted by the Secretary pursuant to subsection (b).*

(b) *REGULATIONS.*—

(1) *IN GENERAL.*—*Not later than 1 year after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012, the Secretary shall issue regulations to implement the Uniform Motor Carrier Permit Program.*

(2) *REVISIONS.*—*The Secretary may modify the regulations issued under paragraph (1) only as necessary to promote safety, efficiency, and uniformity.*

(c) *FINANCIAL AND TECHNICAL ASSISTANCE AND SUPPORT.*—

(1) *IN GENERAL.*—*The Secretary may provide planning and transition assistance to States to facilitate the adoption of the Uniform Motor Carrier Permit Program.*

(2) *USE OF FUNDS.*—*A State shall use assistance awarded under this subsection only to transition existing State registration and permitting programs to the Uniform Motor Carrier Permit Program.*

(3) *TERMINATION OF AUTHORITY.*—*The authority to provide assistance to States under this subsection shall terminate 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012.*

(d) *COOPERATIVE AGREEMENT.*—*The Secretary may enter into a cooperative agreement for outreach, data management, and other centralized functions supporting implementation of the Uniform Motor Carrier Permit Program.*

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(e) *RELATED EXPENSES.*—For purposes of section 5125(f)(1), a fee used for a purpose related to transporting hazardous material may include the costs incurred in implementing and administering the Uniform Motor Carrier Permit Program, including the costs of establishing or modifying forms, procedures, and systems.

(f) *TRANSITION OF STATE PROGRAMS.*—Not later than 6 years after the date of enactment of the Hazardous Material Transportation Safety, Efficiency, and Accountability Act of 2012, a State may enforce registration and permitting requirements for motor carriers that transport hazardous material in commerce only in accordance with the Uniform Motor Carrier Permit Program.

(g) *LIMITATION.*—Nothing in this section shall define or limit the amount of a fee a State may impose or collect for registration and permitting.

**§ 5120. International uniformity of standards and requirements**

(a) *PARTICIPATION IN INTERNATIONAL FORUMS.*—Subject to guidance and direction from the Secretary of [State, the Secretary of Transportation shall participate] State and the Secretary of Transportation, the Administrator of the Pipelines and Hazardous Materials Safety Administration, or the Administrator's designee, shall represent the United States and serve as the United States competent authority in international forums that establish or recommend mandatory standards and requirements for transporting hazardous material in international commerce.

(b) *CONSULTATION.*—[The Secretary] The Administrator may consult with interested authorities to ensure that, to the extent practicable, regulations the Secretary prescribes under [sections 5103(b), 5104, 5110, and 5112 of this title] this chapter are consistent with standards and requirements related to transporting hazardous material that international authorities adopt.

\* \* \* \* \*

**§ 5121. Administrative**

(a) \* \* \*

\* \* \* \* \*

(c) *INSPECTIONS AND INVESTIGATIONS.*—

(1) *IN GENERAL.*—A designated officer, employee, or agent of the Secretary—

(A) \* \* \*

(B) except in the case of packaging immediately adjacent to its hazardous material contents, may gain access to, open, and examine a package offered for, or in, transportation when the officer, employee, or agent has an objectively reasonable and articulable belief that the package [may contain a hazardous material;] may contain an undeclared hazardous material and such activity takes place at a properly equipped facility designated by the Secretary for this purpose;

(C) may remove from transportation a package [or related packages] suspected of containing undeclared haz-

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ardous material in a shipment offered for or in transportation for which—

(i) \* \* \*

\* \* \* \* \*

(E) as necessary, under terms and conditions specified by the Secretary, [may order the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis; and] *may order the offeror, after giving notice to the carrier, to have the package transported to, opened, and the contents examined and analyzed at a properly equipped facility designated by the Secretary for this purpose;*

(F) when safety might otherwise be compromised, may authorize properly qualified personnel to assist in the activities conducted under this subsection[.]; and

(G) shall provide contemporaneous notice to the affected offeror and carrier of its decision to exercise its authority under subparagraph (B), (C), (D), or (E).

\* \* \* \* \*

[(e) REGULATIONS.—

[(1) TEMPORARY REGULATIONS.—Not later than 60 days after the date of enactment of the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, the Secretary shall issue temporary regulations to carry out subsections (c) and (d). The temporary regulations shall expire on the date of issuance of the regulations under paragraph (2).

[(2) FINAL REGULATIONS.—Not later than 1 year after such date of enactment, the Secretary shall issue regulations to carry out subsections (c) and (d) in accordance with subchapter II of chapter 5 of title 5.]

(e) REGULATIONS.—*To carry out subsections (c) and (d), the Secretary shall issue regulations in accordance with section 553 of title 5 that address, at a minimum, the following:*

(1) *Avoidance of delay in the transportation of time-sensitive materials, such as medical products, perishables, and other packages that are not the subject of the inspection.*

(2) *Appropriate training and equipment for inspectors.*

(3) *Restoration of the properly certified status of the inspected package before resumption of transportation of that package.*

(4) *Consideration of the costs and damages that might occur as a result of an inspection.*

\* \* \* \* \*

(g) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may enter into grants and cooperative agreements with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—

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(1) \* \* \*

\* \* \* \* \*

(3) to conduct research, development, demonstration, risk assessment, and emergency response planning and training activities; **[or]**

*(4) to work with State enforcement personnel with information and training relating to the uniform enforcement of the regulations governing the transportation of hazardous material;*  
or

**[(4)]** (5) to otherwise carry out this chapter.

(h) **BIENNIAL REPORT.**—The Secretary shall, once every 2 years, prepare and transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a comprehensive report on the transportation of hazardous **[materials during]** *material in all modes of transportation during* the preceding 2 calendar years. The report shall include—

(1) \* \* \*

*(2) a summary of the hazardous material transported during the period covered by the report, set forth by the type and quantity of hazardous material and by mode;*

**[(2)]** (3) a list and summary of applicable Government regulations, criteria, orders, and special permits;

**[(3)]** (4) a summary of the basis for each special **[permit]** *permit issued;*

**[(4)]** (5) an evaluation of the effectiveness of enforcement **[activities]** *activities, including activities conducted under subsections (c) and (d),* relating to a function regulated by the Secretary under section 5103(b)(1) and the degree of voluntary compliance with regulations;

**[(5)]** (6) a summary of outstanding problems in carrying out this chapter in order of priority; and

**[(6)]** (7) recommendations for **[appropriate legislation]** *legislative action that the Secretary considers appropriate.*

\* \* \* \* \*

**§ 5123. Civil penalty**

(a) **PENALTY.**—(1) A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of **[at least \$250 but]** not more than \$50,000 for each violation. A person acts knowingly when—

(A) \* \* \*

\* \* \* \* \*

**[(3)]** If the violation is related to training, paragraph (1) shall be applied by substituting “\$450” for “\$250”.**]**

**[(4)]** (3) A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues.

*(4) A carrier shall not be liable for violations of this chapter, or a regulation issued under this chapter, stemming from pre-transportation functions, as defined in section 171.1 of title 49, Code of*

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*Federal Regulations, that are performed by another person unless the carrier has actual knowledge of a violation.*

\* \* \* \* \*  
(h) *PENALTY FOR FAILURE TO MAINTAIN RECORDS, REPORTS, AND INFORMATION.—The Secretary may impose a penalty on a person who fails to comply with section 5121(b).*  
\* \* \* \* \*

**§ 5125. Preemption**

(a) **GENERAL.**—Except as provided in subsections (b), (c), and (e) of this section and unless authorized by another law of the United States, a requirement of a State, political subdivision of a State, or Indian tribe is preempted if—

(1) complying with a requirement of the State, political subdivision, or tribe and a requirement of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security is not possible; **[or]**

(2) the requirement of the State, political subdivision, or tribe, as applied or enforced, is an obstacle to accomplishing and carrying out this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security **[.]**; or

(3) *the requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an unreasonable burden on commerce.*

(b) **SUBSTANTIVE DIFFERENCES.**—(1) Except as provided in subsection (c) of this section and unless authorized by another law of the United States, a law, regulation, order, or other requirement of a State, political subdivision of a State, or Indian tribe about any of the following subjects, that is not substantively the same as a provision of this chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security, is preempted:

(A) \* \* \*

\* \* \* \* \*

(D) the **[written]** notification, recording, and reporting of the unintentional release in transportation of hazardous material.

\* \* \* \* \*

(c) **COMPLIANCE WITH SECTION 5112(B) REGULATIONS.**—(1) Except as provided in paragraph (2) of this subsection, after the last day of the 2-year period beginning on the date a regulation is prescribed under section 5112(b) of this title, a State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies

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with section 5112(b)[.] and is published in the Department's hazardous material route registry under section 5112(c).

\* \* \* \* \*

(d) DECISIONS ON PREEMPTION.—(1) A person (including a State, political subdivision of a State, or Indian tribe) directly affected by a requirement of a State, political subdivision, or tribe may apply to the Secretary, as provided by regulations prescribed by the Secretary, for a decision on whether the requirement is preempted by subsection (a), (b)(1), or (c) of this section [or section 5119(f)]. The Secretary shall publish notice of the application in the Federal Register. The Secretary shall issue a decision on an application for a determination within 180 days after the date of the publication of the notice of having received such application, or the Secretary shall publish a statement in the Federal Register of the reason why the Secretary's decision on the application is delayed, along with an estimate of the additional time necessary before the decision is made. After notice is published, an applicant may not seek judicial relief on the same or substantially the same issue until the Secretary takes final action on the application or until 180 days after the application is filed, whichever occurs first.

\* \* \* \* \*

(e) WAIVER OF PREEMPTION.—A State, political subdivision of a State, or Indian tribe may apply to the Secretary for a waiver of preemption of a requirement the State, political subdivision, or tribe acknowledges is preempted by subsection (a), (b)(1), or (c) of this section [or section 5119(f)]. Under a procedure the Secretary prescribes by regulation, the Secretary may waive preemption on deciding the requirement—

(1) \* \* \*

\* \* \* \* \*

(f) FEES.—(1) \* \* \*

(2) A State or political subdivision thereof or Indian tribe that levies a fee in connection with the transportation of hazardous materials shall, upon the Secretary's request, biennially report to the Secretary on—

(A) \* \* \*

\* \* \* \* \*

(g) APPLICATION OF EACH PREEMPTION STANDARD.—Each standard for preemption in subsection (a), (b)(1), or (c)[, and in section 5119(f),] is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.

[(h) NON-FEDERAL ENFORCEMENT STANDARDS.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.]

\* \* \* \* \*

**§ 5128. Authorization of appropriations**

[(a) IN GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

[(1) For fiscal year 2005, \$24,940,000.

[(2) For fiscal year 2006, \$29,000,000.

[(3) For fiscal year 2007, \$30,000,000.

[(4) For fiscal year 2008, \$30,000,000.

[(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), for each of fiscal years 2005 through 2008 the following:

[(1) To carry out section 5115, \$200,000.

[(2) To carry out sections 5116(a) and (b), \$21,800,000 to be allocated as follows:

[(A) \$5,000,000 to carry out section 5116(a).

[(B) \$7,800,000 to carry out section 5116(b).

[(C) Of the amount provided for by this paragraph for a fiscal year in excess of the suballocations in subparagraphs (A) and (B)—

[(i) 35 percent shall be used to carry out section 5116(a); and

[(ii) 65 percent shall be used to carry out section 5116(b),

except that the Secretary may increase the proportion to carry out section 5116(b) and decrease the proportion to carry out section 5116(a) if the Secretary determines that such reallocation is appropriate to carry out the intended uses of these funds as described in the applications submitted by States and Indian tribes.

[(3) To carry out section 5116(f), \$150,000.

[(4) To publish and distribute the Emergency Response Guidebook under section 5116(i)(3), \$625,000.

[(5) To carry out section 5116(j), \$1,000,000.

[(c) HAZMAT TRAINING GRANTS.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), to carry out section 5107(e) \$4,000,000 for each of fiscal years 2005 through 2008.

[(d) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated for the Department of Transportation such amounts as may be necessary to carry out section 5103a.

[(e) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

[(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section remain available until expended.]

**§ 5128. Authorization of appropriations**

(a) IN GENERAL.—In order to carry out this chapter (except sections 5108(g)(2), 5113, 5115, 5116, and 5119), there are authorized to be appropriated to the Secretary \$39,000,000 for each of fiscal years 2012 through 2016.

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(b) **HAZARDOUS MATERIAL EMERGENCY PREPAREDNESS FUND.**—For each of the fiscal years 2012 through 2016, there shall be available to the Secretary, from the account established pursuant to section 5116(i), the following:

- (1) To carry out section 5115, \$188,000.
- (2) To carry out subsections (a) and (b) of section 5116, \$21,800,000.
- (3) To carry out section 5116(f), \$150,000.
- (4) To publish and distribute the Emergency Response Guidebook under section 5116(j)(3), \$625,000.
- (5) To carry out section 5116(j), \$1,000,000.

(c) **ISSUANCE OF HAZMAT LICENSES.**—There are authorized to be appropriated to the Secretary such amounts as may be necessary to carry out section 5103a.

(d) **CREDITS TO APPROPRIATIONS.**—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, tribe, authority, or entity.

(e) **UNIFORM FORMS AND PROCEDURES.**—There are authorized to be appropriated to the Secretary \$1,000,000 to carry out section 5119. This amount shall remain available to be expended by the Secretary for the 6-year period that begins on the date of enactment of this section.

(f) **AVAILABILITY OF AMOUNTS.**—Amounts made available by or under this section, except for the amount under subsection (e), shall remain available until expended.

## CHAPTER 52—TRANSPORTATION PLANNING

- Sec.  
5201. Policy.  
5202. Definitions.  
5203. Metropolitan transportation planning.  
5204. Statewide transportation planning.  
5205. National strategic transportation plan.  
5206. National performance management system.

### § 5201. Policy

(a) **IN GENERAL.**—It is in the national interest to—

(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transportation operators as guided by the planning factors identified in sections 5203(f) and 5204(d).

(b) **COMMON TRANSPORTATION PLANNING PROGRAM.**—This chapter provides a common transportation planning program to be

administered by the Federal Highway Administration and the Federal Transit Administration.

**§ 5202. Definitions**

*In this chapter, the following definitions apply:*

(1) **METROPOLITAN PLANNING AREA.**—The term “metropolitan planning area” means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under section 5203(c).

(2) **METROPOLITAN LONG-RANGE TRANSPORTATION PLAN.**—The term “metropolitan long-range transportation plan” means a long-range transportation plan developed by an MPO under section 5203 for a metropolitan planning area.

(3) **METROPOLITAN PLANNING ORGANIZATION; MPO.**—The term “metropolitan planning organization” or “MPO” means the policy board of an organization created as a result of the designation process in section 5203(b).

(4) **METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM; METROPOLITAN TIP.**—The term “metropolitan transportation improvement program” or “metropolitan TIP” means a transportation improvement program developed by an MPO under section 5203 for a metropolitan planning area.

(5) **NONMETROPOLITAN AREA.**—The term “nonmetropolitan area” means a geographic area outside designated metropolitan planning areas.

(6) **NONMETROPOLITAN LOCAL OFFICIAL.**—The term “nonmetropolitan local official” means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

(7) **REGIONAL TRANSPORTATION PLANNING ORGANIZATION.**—The term “regional transportation planning organization” means a policy board of an organization created as the result of a designation under section 5204(k).

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

(9) **STATE.**—The term “State” means any of the 50 States, the District of Columbia, or Puerto Rico.

(10) **STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.**—The term “statewide strategic long-range transportation plan” means a strategic long-range transportation plan developed by a State under section 5204 for all areas of the State.

(11) **STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM; STATEWIDE TIP.**—The term “statewide transportation improvement program” or “statewide TIP” means a transportation improvement program developed by a State under section 5204 for all areas of the State.

(12) **URBANIZED AREA.**—The term “urbanized area” means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

**§ 5203. Metropolitan transportation planning**

(a) **GENERAL REQUIREMENTS.**—

(1) **DEVELOPMENT OF METROPOLITAN LONG-RANGE PLANS AND TIPS.**—To accomplish the objectives set forth in section

5201, metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transportation operators, shall develop metropolitan long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

(2) **CONTENTS.**—Metropolitan long-range transportation plans and TIPs shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

(3) **PROCESS OF DEVELOPMENT.**—The process for developing metropolitan long-range transportation plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

(b) **DESIGNATION OF MPOS.**—

(1) **IN GENERAL.**—To carry out the transportation planning process required by this section, an MPO shall be designated for an urbanized area with a population of more than 100,000 individuals—

(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

(B) in accordance with procedures established by applicable State or local law.

(2) **STRUCTURE.**—An MPO that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

(A) local elected officials;

(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

(C) appropriate State officials.

(3) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in this subsection may be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

(A) develop metropolitan long-range transportation plans or TIPs for adoption by an MPO; and

(B) develop long-range capital plans, coordinate public transportation services or projects, or carry out other activities pursuant to State law.

(4) **CONTINUING DESIGNATION.**—A designation of an MPO under this subsection or any other provision of law shall remain in effect until the MPO is redesignated under paragraph (5) or revoked by agreement among the Governor and units of

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general purpose local government that together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

(5) *REDESIGNATION PROCEDURES.*—An MPO may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

(6) *DESIGNATION OF MULTIPLE MPOS.*—More than 1 MPO may be designated within an existing metropolitan planning area only if the Governor and the existing MPO determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 MPO for the area appropriate.

(c) *METROPOLITAN PLANNING AREA BOUNDARIES.*—

(1) *IN GENERAL.*—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the MPO and the Governor.

(2) *INCLUDED AREA.*—A metropolitan planning area—

(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan long-range transportation plan; and

(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

(3) *IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.*—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing MPO.

(4) *EXISTING METROPOLITAN PLANNING AREAS IN NON-ATTAINMENT.*—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of August 10, 2005, the boundaries of the metropolitan planning area in existence as of such date shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected MPOs in the manner described in subsection (b)(5).

(5) *NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.*—In the case of an urbanized area designated after August 10, 2005, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

(A) shall be established in the manner described in subsection (b)(1);

(B) shall encompass the areas described in subsection (c)(2)(A);

(C) may encompass the areas described in subsection (c)(2)(B); and

(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

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(d) COORDINATION IN MULTISTATE AREAS.—

(1) IN GENERAL.—The Secretary shall encourage a Governor with responsibility for a portion of a multistate metropolitan area and the appropriate MPOs to provide coordinated transportation planning for the entire metropolitan area.

(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

(3) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

(e) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

(1) NONATTAINMENT AREAS.—If more than 1 MPO has authority within a metropolitan area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each MPO shall consult with the other MPOs designated for such area and the State in the coordination of metropolitan long-range transportation plans and TIPs.

(2) TRANSPORTATION IMPROVEMENTS LOCATED IN AREAS REPRESENTED BY MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of this title, is located within the boundaries of more than 1 metropolitan planning area, the MPOs shall coordinate metropolitan long-range transportation plans and TIPs regarding the transportation improvement.

(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage an MPO to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, metropolitan long-range transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—

(A) recipients of assistance under chapter 53;

(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and

(C) recipients of assistance under sections 202 and 203 of title 23.

(f) SCOPE OF PLANNING PROCESS.—

(1) *IN GENERAL.*—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and for freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;

(G) promote efficient system management and operation, including through the use of intelligent transportation systems;

(H) emphasize the preservation of the existing transportation system; and

(I) support intermodal facilities or facilitate regional growth.

(2) *FAILURE TO CONSIDER FACTORS.*—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, chapter 53 of this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan long-range transportation plan or TIP, a project or strategy, or the certification of a planning process.

(g) *DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.*—

(1) *IN GENERAL.*—

(A) *EXISTING AND FORMER NONATTAINMENT AREAS.*—An MPO shall prepare and update a metropolitan long-range transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The MPO shall prepare and update the plan every 4 years (or more frequently, if the MPO elects to update more frequently) in the case of each of the following:

(i) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

(ii) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).

(B) *OTHER AREAS.*—In the case of any other area required to have a metropolitan long-range transportation

plan, the MPO shall prepare and update the plan every 5 years unless the MPO elects to update more frequently.

(2) **LONG-RANGE TRANSPORTATION PLAN.**—A metropolitan long-range transportation plan shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

(A) **IDENTIFICATION OF TRANSPORTATION FACILITIES.**—

An identification of transportation facilities (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the plan, the MPO shall consider factors described in subsection (f) and other relevant data and factors disseminated by the Secretary pursuant to section 5205(b) as such factors relate to a 20-year forecast period.

(B) **MITIGATION ACTIVITIES.**—

(i) **IN GENERAL.**—A metropolitan long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(ii) **CONSULTATION.**—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(C) **FINANCIAL PLAN.**—

(i) **IN GENERAL.**—A financial plan that—

(I) demonstrates how the adopted metropolitan long-range transportation plan can be implemented;

(II) indicates resources from public and private sources that are reasonably expected to be made available to carry out the metropolitan long-range transportation plan;

(III) recommends any additional financing strategies for needed projects and programs; and

(IV) may include, for illustrative purposes, additional projects that would be included in the adopted metropolitan long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(ii) **ESTIMATES OF FUNDS.**—For the purpose of developing the metropolitan long-range transportation plan, the MPO, public transportation operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

(D) **OPERATIONAL AND MANAGEMENT STRATEGIES.**—Operational and management strategies to improve the performance of existing transportation facilities to relieve ve-

hicular congestion and maximize the safety and mobility of people and goods.

(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

(3) INTERCITY BUS.—A metropolitan long-range transportation plan shall consider the role intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(4) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the MPO shall coordinate the development of a metropolitan long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

(5) CONSULTATION; COMPARISONS.—

(A) CONSULTATION.—A metropolitan long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

(B) COMPARISONS.—Consultation under subparagraph (A) shall involve, as appropriate, a comparison of the metropolitan long-range transportation plan—

(i) to State conservation plans and maps, if available; and

(ii) to inventories of natural and historic resources, if available.

(6) PARTICIPATION BY INTERESTED PARTIES.—

(A) IN GENERAL.—An MPO shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, including intercity bus 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 its metropolitan long-range transportation plan.

(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan shall—

(i) be developed in consultation with all interested parties; and

(ii) provide that all interested parties have reasonable opportunities to comment on the contents of the metropolitan long-range transportation plan.

(C) METHODS.—In carrying out subparagraph (A), the MPO shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the Internet, as appropriate to afford a reasonable opportunity for consideration of public information under subparagraph (A).

(7) PUBLICATION.—A metropolitan long-range transportation plan involving Federal participation shall be published or otherwise made readily available by the MPO for public review (including to the maximum extent practicable in electronically accessible formats and means, such as the Internet) approved by the MPO, and submitted for information purposes to the Governor, at such times and in such manner as the Secretary shall establish.

(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or MPO shall not be required to select any project from the illustrative list of additional projects included in the financial plan under such paragraph.

(h) METROPOLITAN TIP.—

(1) DEVELOPMENT.—

(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the MPO designated for a metropolitan area shall develop a metropolitan TIP for the area for which the organization is designated.

(B) OPPORTUNITY FOR COMMENT.—In developing the metropolitan TIP, the MPO, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (g)(6).

(C) FUNDING ESTIMATES.—For the purpose of developing the metropolitan TIP, the MPO, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

(D) UPDATING AND APPROVAL.—The metropolitan TIP shall be updated at least once every 4 years and shall be approved by the MPO and the Governor.

(2) CONTENTS.—

(A) PRIORITY LIST.—The metropolitan TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the metropolitan TIP.

(B) FINANCIAL PLAN.—The metropolitan TIP shall include a financial plan that—

(i) demonstrates how the metropolitan TIP can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the metropolitan TIP;

(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

(iv) may include, for illustrative purposes, additional projects that would be included in the approved metropolitan TIP if reasonable additional resources beyond those identified in the financial plan were available.

(C) DESCRIPTIONS.—A project in the metropolitan TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.

(3) INCLUDED PROJECTS.—

(A) PROJECTS UNDER TITLE 23 AND CHAPTER 53 OF THIS TITLE.—A metropolitan TIP for an area shall include the projects within the area that are proposed for funding under chapter 1 of title 23 and chapter 53 of this title.

(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan TIP.

(ii) OTHER PROJECTS.—Projects proposed for funding under such chapter that are not determined to be regionally significant shall be grouped in one line item or identified individually in the metropolitan TIP.

(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—A project shall be consistent with the metropolitan long-range transportation plan for the area.

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

(E) TIP MODIFICATIONS BY GOVERNOR.—

(i) IN GENERAL.—Notwithstanding any other provisions of this section or section 5204, if a State and an MPO fail to agree on programming a project of statewide significance on the Interstate System (as defined in section 101(a) of title 23) into a metropolitan TIP, the Governor may modify the metropolitan TIP to add the project without approval or endorsement by the MPO.

(ii) CONFORMING AMENDMENTS TO METROPOLITAN LONG-RANGE TRANSPORTATION PLAN.—If the Governor modifies a metropolitan TIP under clause (i), the MPO shall amend its metropolitan long-range transportation plan to be consistent with the modified metropolitan TIP.

(4) NOTICE AND COMMENT.—Before approving a metropolitan TIP, an MPO, in cooperation with the State and any af-

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ected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (g)(5).

(5) SELECTION OF PROJECTS.—

(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the metropolitan TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out from the approved metropolitan TIP—

(i) by—

(I) in the case of projects under title 23, the State; and

(II) in the case of projects under chapter 53, the designated recipients of public transportation funding; and

(ii) in cooperation with the MPO.

(B) 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 metropolitan TIP in place of another project in the program.

(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or MPO shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).

(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or MPO to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved metropolitan TIP.

(7) PUBLICATION.—

(A) PUBLICATION OF TIPS.—A metropolitan TIP involving Federal participation shall be published or otherwise made readily available, including on the Internet, by the MPO for public review.

(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects (including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) for which Federal funds have been obligated in the preceding year shall be published or otherwise made available, including on the Internet, by the cooperative effort of the State, public transportation operator, and MPO for public review. The listing shall be consistent with the categories identified in the metropolitan TIP.

(i) TRANSPORTATION MANAGEMENT AREAS.—

(1) IDENTIFICATION AND DESIGNATION.—

(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

(B) *DESIGNATIONS ON REQUEST.*—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the MPO designated for the area.

(2) *LONG-RANGE TRANSPORTATION PLANS.*—In a transportation management area, metropolitan long-range transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the MPO in cooperation with the State and public transportation operators.

(3) *CONGESTION MANAGEMENT PROCESS.*—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 of this title through the use of travel demand reduction, intelligent transportation systems, and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but not sooner than 1 year after the identification of a transportation management area.

(4) *SELECTION OF PROJECTS.*—

(A) *IN GENERAL.*—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System under such title) or under chapter 53 of this title shall be selected for implementation from the approved metropolitan TIP by the MPO designated for the area in consultation with the State and any affected public transportation operator.

(B) *NATIONAL HIGHWAY SYSTEM PROJECTS.*—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System under title 23 shall be selected for implementation from the approved metropolitan TIP by the State in cooperation with the MPO designated for the area.

(5) *CERTIFICATION.*—

(A) *IN GENERAL.*—The Secretary shall—

(i) ensure that the metropolitan planning process of an MPO serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.

(B) *REQUIREMENTS FOR CERTIFICATION.*—The Secretary may make the certification under subparagraph (A) if—

(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

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(ii) there is a metropolitan TIP for the metropolitan planning area that has been approved by the MPO and the Governor.

(C) EFFECT OF FAILURE TO CERTIFY.—

(i) WITHHOLDING OF PROJECT FUNDS.—If the metropolitan planning process of an MPO serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the MPO for projects funded under title 23 and chapter 53 of this title.

(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

(j) ABBREVIATED PLANS FOR CERTAIN AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan long-range transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

(1) IN GENERAL.—Notwithstanding any other provision of title 23, this chapter, or chapter 53 of this title, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

(l) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to confer on an MPO the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53 of this title.

(m) FUNDING.—Funds set aside under section 104(f) of title 23 or section 5305(g) of this title shall be available to carry out this section.

(n) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since metropolitan long-range transportation plans and TIPs are subject to a

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*reasonable opportunity for public comment, since individual projects included in such plans and TIPs 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 such plans and TIPs have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning such plans and TIPs shall not be considered to be a Federal action subject to review under that Act.*

**§ 5204. Statewide transportation planning**

**(a) GENERAL REQUIREMENTS.—**

**(1) DEVELOPMENT OF PLANS AND PROGRAMS.—***To accomplish the objectives stated in section 5201, a State shall develop a statewide strategic long-range transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 5203.*

**(2) CONTENTS.—***Statewide strategic long-range transportation plans and TIPs shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.*

**(3) PROCESS OF DEVELOPMENT.—***The process for developing statewide strategic long-range transportation plans and TIPs shall provide for consideration of all modes of transportation and the policies stated in section 5201, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.*

**(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—***A State shall—*

**(1)** *coordinate planning carried out under this section with the transportation planning activities carried out under section 5203 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and*

**(2)** *develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).*

**(c) INTERSTATE AGREEMENTS.—**

**(1) IN GENERAL.—***The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.*

**(2) RESERVATION OF RIGHTS.—***The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.*

**(d) SCOPE OF PLANNING PROCESS.—**

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(1) *IN GENERAL.*—A State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—

(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

(B) increase the safety of the transportation system for motorized and nonmotorized users;

(C) increase the security of the transportation system for motorized and nonmotorized users;

(D) increase the accessibility and mobility of people and freight;

(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

(G) promote efficient system management and operation, including through the use of intelligent transportation systems; and

(H) emphasize the preservation of the existing transportation system.

(2) *FAILURE TO CONSIDER FACTORS.*—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23, chapter 53 of this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide strategic long-range transportation plan or TIP, a project or strategy, or the certification of a planning process.

(e) *ADDITIONAL REQUIREMENTS.*—In carrying out planning under this section, a State shall, at a minimum—

(1) with respect to nonmetropolitan areas, cooperate with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k);

(2) consider the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

(3) coordinate statewide long-range transportation plans and TIPs and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

(f) *STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.*—

(1) *DEVELOPMENT.*—

(A) *IN GENERAL.*—A State shall develop a statewide strategic long-range transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal interconnected transportation system of the State.

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(B) STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN REQUIREMENTS.—

(i) NATIONAL TRANSPORTATION STATISTICS.—In developing a statewide strategic long-range transportation plan, the State shall consider the data and factors disseminated by the Secretary pursuant to section 5205(b) for that particular State.

(ii) TRANSPORTATION PROJECTS THAT ARE OF STATEWIDE, REGIONAL, AND NATIONAL IMPORTANCE.—The State shall identify transportation projects across all modes of transportation in the State that have statewide, regional, and national significance. In identifying these projects, the State shall consider the factors described in section 5205(b).

(iii) STATES WITH CONGESTED AIRPORTS.—If a State has an airport in its jurisdiction that had at least 1 percent of all delayed aircraft operations in the United States, as identified by the Federal Aviation Administration's Airport Capacity Benchmark Report, the statewide strategic long-range transportation plan shall include measures to alleviate congestion at that airport either through expansion or the development of additional facilities.

(iv) STATES WITH CONGESTED FREIGHT RAIL CORRIDORS.—If data from the Department of Transportation and the freight railroad industry project that a State has freight railroad corridors that operate at levels of service that are at or exceed capacity, the statewide strategic long-range transportation plan shall include measures by which the State department of transportation and the freight railroads provide relief for the congested corridors.

(v) STATES WITH DEEP DRAFT PORTS.—If a State has a deep draft port, the statewide strategic long-range transportation plan shall take into account any plan for expansion at that port and any projected increase in shipping traffic at that port.

(vi) STATES WITH NAVIGABLE INLAND WATERWAYS.—A State that has navigable inland waterways shall include in its statewide strategic long-range transportation plan any plans to use those waterways to facilitate the efficient and reliable transportation of freight and people.

(vii) PROJECT INTERCONNECTIVITY.—In developing a statewide strategic long-range transportation plan, the State shall ensure interconnectivity for freight and passengers between different facilities and between different modes of transportation.

(viii) COST ESTIMATES FOR PROJECTS THAT ARE OF STATEWIDE, REGIONAL, AND NATIONAL IMPORTANCE.—In developing the statewide strategic long-range transportation plan, the State shall include estimates of the costs of each of the projects identified in clause (ii).

(2) CONSULTATION WITH GOVERNMENTS.—

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(A) **METROPOLITAN AREAS.**—The statewide strategic long-range transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5203.

(B) **NONMETROPOLITAN AREAS.**—With respect to non-metropolitan areas, the statewide strategic long-range transportation plan shall be developed in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

(C) **INDIAN TRIBAL AREAS.**—With respect to an area of the State under the jurisdiction of an Indian tribal government, the statewide strategic long-range transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

(D) **CONSULTATION; COMPARISONS.**—

(i) **CONSULTATION.**—A statewide strategic long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, regional, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

(ii) **COMPARISONS.**—Consultation under clause (i) shall involve, as appropriate, comparison of statewide strategic long-range transportation plans—

(I) to State and tribal conservation plans and maps, if available; and

(II) to inventories of natural and historic resources, if available.

(3) **PARTICIPATION BY INTERESTED PARTIES.**—

(A) **IN GENERAL.**—The State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, including intercity bus 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 statewide strategic long-range transportation plan.

(B) **METHODS.**—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

(i) hold any public meetings at convenient and accessible locations and times;

(ii) employ visualization techniques to describe plans; and

(iii) make public information available in electronically accessible format and means, such as the Internet, as appropriate to afford a reasonable opportunity for consideration of public information under subparagraph (A).

(4) **MITIGATION ACTIVITIES.**—

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(A) *IN GENERAL.*—A statewide strategic long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.

(B) *CONSULTATION.*—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.

(5) *FINANCIAL PLAN.*—The statewide strategic long-range transportation plan may include a financial plan that—

(A) demonstrates how the adopted statewide strategic long-range transportation plan can be implemented;

(B) indicates resources from public and private sources that are reasonably expected to be made available to carry out the statewide strategic long-range transportation plan;

(C) recommends any additional financing strategies for needed projects and programs; and

(D) may include, for illustrative purposes, additional projects that would be included in the adopted statewide strategic long-range transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

(6) *SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.*—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).

(7) *EXISTING SYSTEM.*—A statewide strategic long-range transportation plan should include capital, operations, and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

(8) *INTERCITY BUS.*—A statewide strategic long-range transportation plan shall consider the role intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

(9) *PUBLICATION OF STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLANS.*—A statewide strategic long-range transportation plan prepared by a State shall be published or otherwise made available, including to the maximum extent practicable in electronically accessible formats and means, such as the Internet.

(g) *STATEWIDE TIP.*—

(1) *DEVELOPMENT.*—A State shall develop a statewide TIP for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.

(2) *CONSULTATION WITH GOVERNMENTS.*—

(A) *METROPOLITAN AREAS.*—With respect to a metropolitan area in the State, the program shall be developed in cooperation with the MPO designated for the metropolitan area under section 5203.

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(B) *NONMETROPOLITAN AREAS.*—With respect to a nonmetropolitan area in the State, the program shall be developed in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

(C) *INDIAN TRIBAL AREAS.*—With respect to an 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 statewide TIP developed 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, public transportation operator, and the MPO for public review. The listing shall be consistent with the funding categories identified in each metropolitan TIP.

(C) *PROJECTS UNDER CHAPTER 2 OF TITLE 23.*—

(i) *REGIONALLY SIGNIFICANT PROJECTS.*—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the statewide TIP.

(ii) *OTHER PROJECTS.*—Projects proposed for funding under such chapter that are not determined to be regionally significant shall be grouped in one line item or identified individually in the statewide TIP.

(D) *CONSISTENCY WITH STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLAN.*—A project shall be—

(i) consistent with the statewide strategic long-range 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 long-range transportation plan;

(iii) identical to the project or phase of the project as described in a metropolitan TIP approved by the Governor; and

(iv) 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 that Act.

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

(F) *FINANCIAL PLAN.*—The statewide TIP may include a financial plan that—

(i) demonstrates how the approved statewide TIP can be implemented;

(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the statewide TIP;

(iii) recommends any additional financing strategies for needed projects and programs; and

(iv) may include, for illustrative purposes, additional projects that would be included in the adopted statewide TIP 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.*—An 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 statewide TIP.

(H) *PRIORITIES.*—The statewide TIP shall reflect the priorities for programming and expenditures of funds required by title 23, this chapter, and chapter 53 of this title.

(5) *PROJECT SELECTION FOR AREAS WITHOUT MPOS.*—

(A) *IN GENERAL.*—Except as provided by subparagraph (B), projects carried out in areas without a designated MPO shall be selected from the approved statewide TIP by the State in cooperation with affected nonmetropolitan local officials or, if applicable, through regional transportation planning organizations described in subsection (k).

(B) *NHS PROJECTS.*—Projects carried out on the National Highway System under title 23 or under sections 5311 and 5317 of this title in areas without a designated MPO shall be selected from the approved statewide TIP by the State in consultation with affected nonmetropolitan local officials.

(6) *TIP APPROVAL.*—Every 4 years, a statewide TIP 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 once every 4 years that the transportation planning process through which statewide strategic long-range

transportation plans and TIPs are developed is consistent with this section and section 5203.

(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 statewide TIP in place of another project in the program.

(h) *FUNDING.*—Funds set aside pursuant to sections 104(f) and 505 of title 23 and section 5305(g) of this title 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 5203, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5203 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 5203, as appropriate.

(j) *CONTINUATION OF CURRENT REVIEW PRACTICE.*—Since statewide strategic long-range transportation plans and TIPs are subject to a reasonable opportunity for public comment, individual projects included in such plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and decisions by the Secretary concerning such plans and TIPs have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning such plans and TIPs shall not be considered to be a Federal action subject to review under that Act.

(k) *DESIGNATION OF REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.*—

(1) *IN GENERAL.*—To carry out the transportation planning process required by this section, a State may establish and designate regional transportation planning organizations to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and TIPs, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

(2) *STRUCTURE.*—A regional transportation planning organization shall be established as a multi-jurisdictional organization of volunteers from nonmetropolitan local officials or their designees and representatives of local transportation systems.

(3) *REQUIREMENTS.*—A regional transportation planning organization shall establish, at a minimum—

(A) a policy committee, the majority of which shall consist of nonmetropolitan local officials, or their designees, and which shall also include, as appropriate, additional representatives from the State, private business, transportation service providers, economic development practitioners, and the public in the region; and

(B) a fiscal and administrative agent, such as an existing regional planning and development organization, to provide professional planning, management, and administrative support.