

(4) *DUTIES.*—The duties of a regional transportation planning organization shall include—

(A) developing and maintaining, in cooperation with the State, regional long-range multimodal transportation plans;

(B) developing a regional transportation improvement program for consideration by the State;

(C) fostering the coordination of local planning, land use, and economic development plans with State, regional, and local transportation plans and programs;

(D) providing technical assistance to local officials;

(E) participating in national, multistate, and State policy and planning development processes to ensure the regional and local input of nonmetropolitan areas;

(F) providing a forum for public participation in the statewide and regional transportation planning processes;

(G) considering and sharing plans and programs with neighboring regional transportation planning organizations, MPOs, and, where appropriate, tribal organizations; and

(H) conducting other duties, as necessary, to support and enhance the statewide planning process under subsection (d).

(5) *STATES WITHOUT REGIONAL TRANSPORTATION PLANNING ORGANIZATIONS.*—If a State chooses not to establish or designate a regional transportation planning organization, the State shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.

§ 5205. National strategic transportation plan

(a) *DEVELOPMENT OF NATIONAL STRATEGIC TRANSPORTATION PLAN.*—

(1) *DEVELOPMENT OF PLAN.*—

(A) *IN GENERAL.*—The Secretary, in consultation with State departments of transportation, shall develop a national strategic transportation plan (in this section referred to as the “national plan”) in accordance with the requirements of this section.

(B) *SOLICITATION.*—Not later than 30 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a solicitation requesting each State department of transportation to submit to the Secretary, not later than 90 days after such date of enactment, a list of projects that the State recommends for inclusion in the national plan.

(C) *STATE SELECTION OF PROJECTS.*—In selecting projects under subparagraph (B), a State department of transportation shall consider the elements of the national plan described in paragraph (2).

(D) *FAILURE TO SUBMIT RECOMMENDATIONS.*—If a State does not submit a list of recommended projects in accordance with this paragraph, the Secretary shall select projects in the State that will be considered for inclusion in the national plan.

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(E) SELECTION OF PROJECTS.—Not later than 60 days after the date on which the Secretary receives a list of recommended projects from a State department of transportation under this paragraph, the Secretary shall review the list and select projects from the list for inclusion in the national plan.

(F) BASIS FOR SELECTION.—In selecting projects for inclusion in the national plan, the Secretary shall consider, at a minimum—

(i) the projects recommended by State departments of transportation under this paragraph;

(ii) the ability of projects to improve mobility by increasing transportation options for passengers and freight;

(iii) the degree to which projects create intermodal links between different modes of transportation, including passenger and freight rail, public transportation, intercity bus, airports, seaports, and navigable inland waterways; and

(iv) the ability of projects to generate national economic benefits, including—

(I) improvements to economic productivity through congestion relief; and

(II) improvements to passenger and freight movement.

(2) ELEMENTS OF NATIONAL PLAN.—

(A) ROLE OF STATEWIDE STRATEGIC LONG-RANGE TRANSPORTATION PLANS.—The national plan shall be modeled after the statewide strategic long-range transportation plans developed under section 5204(f).

(B) NATIONAL AND REGIONAL TRANSPORTATION PROJECTS.—Giving emphasis to the facilities that serve important national and regional transportation functions, the national plan shall include an identification of transportation projects (including major roadways, public transportation facilities, intercity bus facilities, multimodal and intermodal facilities, and intermodal connectors) that facilitate the development of—

(i) a national transportation system; and

(ii) an integrated regional transportation system.

(C) INTERCONNECTIVITY BETWEEN STATES AND REGIONS.—The national plan shall ensure a level of interconnectivity among transportation facilities and strategies at State and regional borders.

(D) IDENTIFICATION OF POTENTIAL HIGH-SPEED INTERCITY RAIL CORRIDORS AND SHIPPING ROUTES.—In developing the national plan, the Secretary, in consultation with State departments of transportation, shall identify potential high-speed passenger rail projects and potential short seas shipping routes.

(E) INTERCITY BUS NETWORK.—The national plan shall identify projects to preserve and expand the Nation's intercity bus network and provide interconnectivity to other forms of intercity and local transportation.

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(F) **AEROTROPOLIS TRANSPORTATION SYSTEMS.**—The national plan shall identify aerotropolis transportation systems that will enhance economic competitiveness and exports in the United States by providing efficient, cost-effective, sustainable, and intermodal connectivity to a defined region of economic significance for freight and passenger transportation.

(G) **COST ESTIMATES FOR PROJECTS.**—In developing the national plan, the Secretary shall include estimates of the costs of each of the projects and strategies identified in the national plan and a total cost of all of the projects and strategies identified in the national plan.

(3) **ISSUANCE AND UPDATING OF NATIONAL PLAN.**—

(A) **ISSUANCE.**—Not later than April 30, 2014, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate the national plan developed under this section.

(B) **UPDATES.**—At least once every 2 years after the date of submission of the national plan under subparagraph (A), the Secretary—

(i) in consultation with State departments of transportation, shall update the national plan; and

(ii) shall submit the updated national plan to the committees referred to in subparagraph (A).

(b) **DISSEMINATION OF TRANSPORTATION DATA AND STATISTICS FOR DEVELOPMENT OF STRATEGIC LONG-RANGE TRANSPORTATION PLANS.**—

(1) **IN GENERAL.**—The Secretary shall develop, and disseminate to the States, relevant long-range transportation data and statistics that a State or the Secretary, as the case may be, shall use in the development of statewide, regional, and national strategic long-range transportation plans.

(2) **TYPES OF TRANSPORTATION DATA AND STATISTICS TO BE DEVELOPED.**—The data and statistics referred to in paragraph (1) shall include, at a minimum, 20-year projections—

(A) of population growth in each State;

(B) from the Department of Transportation's Freight Analysis Framework (referred to in this paragraph as "FAF"), including projections for annual average daily truck flow on specific highway routes;

(C) from the Department of Transportation's Highway Performance Monitoring System (referred to in this paragraph as "HPMS") of estimated peak period congestion on major highway routes or segments of routes and in metropolitan areas;

(D) from HPMS and FAF of estimated traffic volumes on segments of highway that are projected to be classified as moderately or highly congested;

(E) from HPMS and FAF for highway bottlenecks;

(F) of public transportation use in urbanized areas, including for each urbanized area a comparison of estimated

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ridership growth and estimated public transportation revenue vehicle miles to available system capacity and current service levels;

(G) of aviation passenger enplanements and cargo ton miles flown;

(H) of increases in unmanned aerial system and general aviation active aircraft and hours flown;

(I) of capacity-constrained airports and congested air traffic routes;

(J) of passenger demand for suborbital space tourism;

(K) of demand on major freight rail lines;

(L) of shipping traffic at United States ports; and

(M) of intercity bus and passenger rail ridership demand.

§ 5206. National performance management system

(a) ESTABLISHMENT OF NATIONAL PERFORMANCE MANAGEMENT SYSTEM.—

(1) **ESTABLISHMENT.**—The Secretary shall establish a national performance management system to track the Nation's progress toward broad national performance goals for the Nation's highway and public transportation systems.

(2) **COMPONENTS.**—The National Performance Management System shall include the following components:

(A) A national performance management goal.

(B) Core performance measures.

(C) Technical guidance.

(D) A State performance management process, including—

(i) performance targets;

(ii) strategies; and

(iii) reporting requirements.

(b) NATIONAL PERFORMANCE MANAGEMENT GOAL.—

(1) **ESTABLISHMENT.**—The Secretary shall establish, in broad qualitative terms, a national performance management goal for the Nation's highway and public transportation systems to ensure economic growth, safety improvement, and increased mobility.

(2) **CONSISTENCY WITH NATIONAL STRATEGIC TRANSPORTATION PLAN.**—The national strategic transportation plan, to the greatest extent practicable, shall be consistent with the national performance management goal.

(c) CORE PERFORMANCE MEASURES.—

(1) **ESTABLISHMENT.**—Not later than 2 years after the date of enactment of this section, the Secretary, in collaboration with the States, metropolitan planning organizations, and public transportation agencies through the process described in paragraph (4) shall establish core performance measures.

(2) **IMPLEMENTATION.**—A State shall be required to implement the core performance measures as part of the State's performance management process established in subsection (e).

(3) **CATEGORIES.**—The core performance measures shall include not more than 2 measures from each of the following categories:

(A) *Pavement condition on the National Highway System.*

(B) *Bridge condition on the National Highway System.*

(C) *Highway and motor carrier safety.*

(D) *Highway safety infrastructure asset management.*

(E) *Bike and pedestrian safety.*

(F) *Highway congestion.*

(G) *Air emissions and energy consumption.*

(H) *Freight mobility.*

(I) *Public transportation state of good repair.*

(J) *Public transportation service availability.*

(K) *Rural connectivity.*

(4) **PROCESS.**—*The core performance measures shall be established under the following process:*

(A) *At any time after the date of enactment of this section, the State departments of transportation (in consultation with metropolitan planning organizations and public transportation agencies), acting through their national organization, may jointly submit to the Secretary a complete set of recommended core performance measures for use in statewide transportation planning.*

(B) *The Secretary shall give substantial weight to the recommendations submitted by the State departments of transportation, if such recommendations are submitted not later than 18 months after enactment of this section.*

(C) *After consultation with the State departments of transportation regarding the recommendations, the Secretary shall issue a notice in the Federal Register announcing the Secretary's proposed set of core performance measures and providing an opportunity for comment.*

(D) *After considering any comments, the Secretary shall publish a notice in the Federal Register not later than 2 years after the date of enactment of this section announcing the final set of core performance measures.*

(d) **TECHNICAL GUIDANCE.**—

(1) **IN GENERAL.**—*Not later than 6 months after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D), the Secretary shall issue technical guidance, including a uniform methodology for collecting data, for use by the States in applying the core performance measures.*

(2) **DEVELOPMENT.**—*The Secretary shall—*

(A) *develop the technical guidance in collaboration with the State departments of transportation;*

(B) *give substantial weight to any recommendations submitted by the State departments of transportation through their national organization, if such recommendations are submitted not later than 3 months after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D); and*

(C) *provide a reasonable opportunity for State departments of transportation to comment on the technical guidance before it is issued.*

(e) **STATE PERFORMANCE MANAGEMENT PROCESS.**—

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(1) ESTABLISHMENT OF PERFORMANCE TARGETS.—

(A) INITIAL TARGETS.—Not later than 1 year after the Secretary publishes the final set of core performance measures in the Federal Register under subsection (c)(4)(D), a State shall amend its statewide strategic long-range transportation plan to include a target level of performance for each of the core performance measures.

(B) REVISIONS TO TARGETS.—A State may revise its performance targets for the core performance measures at any time by amending its statewide strategic long-range transportation plan and resubmitting the plan to the Secretary.

(2) REPORTING REQUIREMENTS.—

(A) IN GENERAL.—In order to improve the outcomes of the transportation planning process, the States shall implement a national performance reporting process in accordance with subparagraphs (B) and (C).

(B) BASELINE REPORT.—Not later than 6 months after adopting its initial performance targets for the core performance measures pursuant to paragraph (1)(A), a State shall publish a baseline report including data from the most recent year for which data is available for the full set of core performance measures.

(C) ANNUAL PROGRESS REPORTS.—Not later than 18 months after publication of the baseline report, and annually thereafter, a State shall publish a report documenting the progress that the State has made in meeting its performance targets for the core performance measures.

CHAPTER 53—PUBLIC TRANSPORTATION

Sec.

5301. Policies, findings, and purposes.

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[5308. Clean fuels grant program.

5309. Capital investment grants.

5310. Formula grants for special needs of elderly individuals and individuals with disabilities.

[5311. Formula grants for other than urbanized areas.

5312. Research, development, demonstration, and deployment projects.

[5313. Transit cooperative research program.

5314. National research programs.

[5315. National transit institute.

5316. Job access and reverse commute formula grants.

[5317. New freedom program.]

5309. Capital investment grants.

5310. Bus and bus facilities formula grants.

5311. Rural area formula grants.

5312. Transit research.

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5317. Coordinated access and mobility program formula grants.

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[5320. Alternative transportation in parks and public lands.]

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[5322. Human resource programs.]

5322. Training and technical assistance programs.

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5326. Private sector participation.

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[5337. Apportionment based on fixed guideway factors.]

5337. Fixed guideway modernization program.

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[5339. Alternatives analysis program.

5340. Apportionments based on growing States and high density States formula factors.]

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§ 5302. Definitions

(a) IN GENERAL.—Except as otherwise specifically provided, in this chapter, the following definitions apply:

(1) CAPITAL PROJECT.—The term “capital project” means a project for—

(A) * * *

* * * * *

(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed [10 percent] 15 percent of such recipient’s annual formula apportionment under sections 5307 and 5311;

* * * * *

(12) RURAL AREA.—The term “rural area” means an area encompassing a population of less than 50,000 people that has not been designated in the most recent decennial census as an “urbanized area” by the Secretary of Commerce.

[(12)] (13) SECRETARY.—The term “Secretary” means the Secretary of Transportation.

[(13)] (14) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

[(14)] (15) TRANSIT.—The term “transit” means public transportation.

[(15)] (16) TRANSIT ENHANCEMENT.—The term “transit enhancement” means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

(A) * * *

* * * * *

[(16)] (17) URBAN AREA.—The term “urban area” means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

[(17)] (18) URBANIZED AREA.—The term “urbanized area” means an area encompassing a population of not less than

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50,000 people that has been defined and designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce.

* * * * *

[§ 5303. Metropolitan transportation planning

[(a) POLICY.—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 transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

[(b) DEFINITIONS.—In this section and section 5304, 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 subsection (e).

[(2) METROPOLITAN PLANNING ORGANIZATION.—The term "metropolitan planning organization" means the policy board of an organization created as a result of the designation process in subsection (d).

[(3) NONMETROPOLITAN AREA.—The term "nonmetropolitan area" means a geographic area outside a designated metropolitan planning area.

[(4) 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.

[(5) TIP.—The term "TIP" means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

[(6) 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.

[(c) GENERAL REQUIREMENTS.—

[(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

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[(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation 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 the 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.

[(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

[(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 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.—Each metropolitan planning organization 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 shall 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 the plans and TIPs for adoption by a metropolitan planning organization; and

[(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

[(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

[(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization 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 plan-

ning 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 MORE THAN ONE METROPOLITAN PLANNING ORGANIZATION.—More than one metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than one metropolitan planning organization for the area appropriate.

[(e) 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 metropolitan planning organization and the Governor.

[(2) INCLUDED AREA.—Each 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 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 metropolitan planning organization.

[(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 the date of enactment of the Federal Public Transportation Act of 2005, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

[(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Federal Public Transportation Act of 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 (d)(1);

[(B) shall encompass the areas described in paragraph (2)(A);

[(C) may encompass the areas described in paragraph (2)(B); and

[(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.

[(f) COORDINATION IN MULTISTATE AREAS.—

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[(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

[(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any two 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) LAKE TAHOE REGION.—

[(A) DEFINITION.—In this paragraph, the term “Lake Tahoe region” has the meaning given the term “region” in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96-551 (94 Stat. 3234).

[(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

[(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and

[(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.

[(C) INTERSTATE COMPACT.—

[(i) IN GENERAL.—Subject to clause (ii), and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

[(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

[(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.

[(II) FUNDING.—For fiscal year 2008 and each fiscal year thereafter, in addition to other funds made available to the metropolitan planning orga-

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nization for the Lake Tahoe region under this chapter and title 23, prior to any allocation under section 202 of title 23, and notwithstanding the allocation provisions of section 202, the Secretary shall set aside 1/2 of 1 percent of all funds authorized to be appropriated for such fiscal year to carry out section 204 of title 23, and shall make such funds available to the metropolitan planning organization for the Lake Tahoe region to carry out the transportation planning process, environmental reviews, preliminary engineering, and design to complete environmental documentation for transportation projects for the Lake Tahoe region under the Tahoe Regional Planning Compact as consented to in Public Law 96-551 (94 Stat. 3233) and this paragraph.

[(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—

[(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and

[(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of such title.

[(4) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.

[(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—

[(1) NONATTAINMENT AREAS.—If more than one metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.

[(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under this chapter, is located within the boundaries of more than one metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.

[(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization 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, transportation plans and TIPs shall be developed with due consideration of other re-

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lated 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 this chapter;
- [(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 nonemergency transportation services; and
- [(C) recipients of assistance under section 204 of title 23.

[(h) 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; 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 this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.

[(i) DEVELOPMENT OF TRANSPORTATION PLAN.—

[(1) IN GENERAL.—Each metropolitan planning organization shall prepare a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:

- [(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

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[(B) 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).

In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.

[(2) TRANSPORTATION PLAN.—A transportation plan under this section 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, transit, 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 transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as such factors relate to a 20-year forecast period.

[(B) MITIGATION ACTIVITIES.—

[(i) IN GENERAL.—A 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.—A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit 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 vehicular congestion and maximize the safety and mobility of people and goods.

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[(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.

[(F) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.

[(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

[(4) CONSULTATION.—

[(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.

[(B) ISSUES.—The consultation shall involve, as appropriate—

[(i) comparison of transportation plans with State conservation plans or maps, if available; or

[(ii) comparison of transportation plans to inventories of natural or historic resources, if available.

[(5) PARTICIPATION BY INTERESTED PARTIES.—

[(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, 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 transportation plan.

[(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—

[(i) shall be developed in consultation with all interested parties; and

[(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.

[(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization 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

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[(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

[(6) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

[(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).

[(j) METROPOLITAN TIP.—

[(1) DEVELOPMENT.—

[(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.

[(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

[(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, 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 TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.

[(2) CONTENTS.—

[(A) PRIORITY LIST.—The 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 TIP.

[(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—

[(i) demonstrates how the TIP can be implemented;

[(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

[(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and

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[(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.

[(C) DESCRIPTIONS.—Each project in the 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 THIS CHAPTER AND TITLE 23.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.

[(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 transportation improvement program.

[(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in one line item or identified individually in the transportation improvement program.

[(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.

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

[(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).

[(5) SELECTION OF PROJECTS.—

[(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—

[(i) by—

[(I) in the case of projects under title 23, the State; and

[(II) in the case of projects under this chapter, the designated recipients of public transportation funding; and

[(ii) in cooperation with the metropolitan planning organization.

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[(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 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 metropolitan planning organization 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 metropolitan planning organization 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 TIP.

[(7) PUBLICATION.—

[(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

[(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.

[(C) RULEMAKING.—Not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations setting standards for the listing required by subparagraph (B) and specifying the types of data to be included in such list, including sufficient information about each project to identify its type, location, and amount obligated.

[(k) 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 metropolitan planning organization designated for the area.

[(2) TRANSPORTATION PLANS.—In a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.

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[(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 this chapter and title 23 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one 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 and projects carried out under the bridge program or the Interstate maintenance program) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization 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 and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.

[(5) CERTIFICATION.—

[(A) IN GENERAL.—The Secretary shall—

[(i) ensure that the metropolitan planning process of a metropolitan planning organization 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

[(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

[(C) EFFECT OF FAILURE TO CERTIFY.—

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[(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization 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 metropolitan planning organization for projects funded under this chapter and title 23.

[(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.

[(I) 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 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.

[(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

[(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, 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 (e).

[(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this chapter or title 23.

[(o) FUNDING.—Funds set aside under section 5305(g) of this title or section 104(f) of title 23 shall be available to carry out this section.

[(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Envi-

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ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.

[§ 5304. Statewide transportation planning

[(a) GENERAL REQUIREMENTS.—

[(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 5303.

[(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation 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 the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5303(a), 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 5303 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.—

[(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration

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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; 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 this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.

[(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

[(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;

[(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

[(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.

[(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—

[(1) DEVELOPMENT.—Each State shall develop a long-range statewide 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 transportation system of the State.

[(2) CONSULTATION WITH GOVERNMENTS.—

[(A) METROPOLITAN AREAS.—The statewide 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 5303.

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

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

[(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—

[(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.

[(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.

[(3) PARTICIPATION BY INTERESTED PARTIES.—

[(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed 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 World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).

[(4) MITIGATION ACTIVITIES.—

[(A) IN GENERAL.—A 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.

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[(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wild-life, land management, and regulatory agencies.

[(5) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide 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.—The statewide 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) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each 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 World Wide Web.

[(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

[(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program 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 each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.

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

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

[(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers

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of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.

[(4) INCLUDED PROJECTS.—

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

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

[(C) PROJECTS UNDER CHAPTER 2 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 transportation improvement program.

[(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

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

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

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

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

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

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

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plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

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

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

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

[(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this chapter and title 23.

[(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title) by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

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

[(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5303.

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

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[(h) FUNDING.—Funds set aside pursuant to section 5305(g) of this title and section 104(i) of title 23 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 5303, and sections 134 and 135 of title 23, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5303, and sections 134 and 135 of title 23, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 5303, and sections 134 and 135 of title 23, as appropriate.

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

§ 5303. Metropolitan transportation planning

Metropolitan transportation planning programs funded under section 5305 shall be carried out in accordance with the metropolitan planning provisions of section 5203.

§ 5304. Statewide transportation planning

Statewide transportation planning programs funded under section 5305 shall be carried out in accordance with the metropolitan planning provisions of section 5204.

§ 5305. Planning programs

(a) * * *

* * * * *

(d) METROPOLITAN TRANSPORTATION PLANNING PROGRAM.—

(1) * * *

(2) ALLOCATION TO MPO'S.—Amounts apportioned to a State under paragraph (1) shall be made available, not later than 30 days after the date of apportionment, to metropolitan planning organizations in the State [designated under this section] responsible for carrying out the provisions of section 5203 of this title under a formula that—

(A) * * *

* * * * *

(e) [STATE] STATEWIDE TRANSPORTATION PLANNING AND RESEARCH PROGRAM.—

(1) APPORTIONMENT TO STATES.—

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(A) IN GENERAL.—The Secretary shall apportion the amounts made available under subsection (g)(2) among the States for grants and contracts to carry out this section and sections 5304, 5306, [5315,] and 5322 in the ratio that—

(i) * * *

* * * * *

(g) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under [section 5338(c)] section 5338(a)(2) for fiscal years 2005 through 2012—

(1) * * *

* * * * *

§ 5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations

(a) PRIVATE ENTERPRISE PARTICIPATION.—A plan or program required by section 5303, 5304, or 5305 of this title shall encourage to the maximum extent feasible[, as determined by local policies, criteria, and decisionmaking,] the participation of private enterprise. If equipment or a facility already being used in an urban area is to be acquired under this chapter, the program shall provide that it be improved so that it will better serve the transportation needs of the area.

* * * * *

§ 5307. Urbanized area formula grants

(a) * * *

(b) GENERAL AUTHORITY.—

(1) GRANTS.—The Secretary may make grants under this section for—

(A) * * *

* * * * *

(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—

(i) * * *

* * * * *

(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area; [and]

(F) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of at least 200,000 if the State or regional authority providing public transportation for the urbanized area is operating—

(i) 75 buses or fewer in fixed-route service during peak service hours, not to exceed 50 percent of the net project cost of the project for operating expenses; and

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(ii) more than 75 but fewer than 100 buses in fixed-route service during peak service hours, not to exceed 25 percent of the net project cost of the project for operating expenses; and

[(F)] (G) operating costs of equipment and facilities for use in public transportation for local governmental authorities in areas which adopted transit operating and financing plans that became a part of the Houston, Texas, urbanized area as a result of the 2000 decennial census of population, but lie outside the service area of the principal public transportation agency that serves the Houston urbanized area.

* * * * *

(3) TRANSPORTATION MANAGEMENT AREAS.—In a transportation management area designated under section 5303(k) of this title, amounts that cannot be used to pay operating expenses under this section also are available for a highway project if—

(A) * * *

* * * * *

(d) GRANT RECIPIENT REQUIREMENTS.—A recipient may receive a grant in a fiscal year only if—

(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a chief executive officer of a State under this section)—

(A) * * *

* * * * *

(D) will ensure that [elderly and handicapped individuals, or an] *elderly individuals, individuals with disabilities, and any individual presenting a medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.)* [,] will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section not more than 50 percent of the peak hour fare;

* * * * *

(H) will comply with [section 5301(a), section 5301(d),] *section 5301* and sections 5303 through 5306;

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation; and

(J)(i) * * *

(ii) has decided that the expenditure for security projects is not necessary [; and].

[(K) in the case of a recipient for an urbanized area with a population of at least 200,000—

(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancements, as defined in section 5302(a); and

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[(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and]

* * * * *
(k) RELATIONSHIP TO OTHER LAWS.—

(1) APPLICABLE PROVISIONS.—Sections 5301, 5302, 5303, 5304, 5306, [5315(c)] 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333, and 5335 apply to this section and to any grant made under this section.

* * * * *

[§ 5308. Clean fuels grant program

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

[(1) CLEAN FUEL BUS.—The term “clean fuel bus” means a passenger vehicle used to provide public transportation that—

[(A) is powered by—

- [(i) compressed natural gas;
- [(ii) liquefied natural gas;
- [(iii) biodiesel fuels;
- [(iv) batteries;
- [(v) alcohol-based fuels;
- [(vi) hybrid electric;
- [(vii) fuel cell;

[(viii) clean diesel, to the extent allowed under this section; or

[(ix) other low or zero emissions technology; and

[(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.

[(2) ELIGIBLE PROJECT.—The term “eligible project”—

[(A) means a project in a nonattainment or maintenance area described in paragraph (4)(A) for—

[(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;

[(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment for such buses; or

[(iii) constructing new or improving existing public transportation facilities to accommodate clean fuel buses; and

[(B) at the discretion of the Secretary, may include a project located in a nonattainment or maintenance area described in paragraph (4)(A) relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

[(3) MAINTENANCE AREA.—The term “maintenance area” has the meaning such term has under section 101 of title 23.

[(4) RECIPIENT.—

[(A) IN GENERAL.—The term “recipient” means a designated recipient (as defined in section 5307(a)(2)) for an

area that, and a recipient for an urbanized area with a population of less than 200,000 that—

[(i) is designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

[(ii) is a maintenance area for ozone or carbon monoxide.

[(B) SMALLER URBANIZED AREAS.—In the case of an urbanized area with a population of less than 200,000, the State in which the area is located shall act as the recipient for the area under this section.

[(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to recipients to finance eligible projects.

[(c) CLEAN DIESEL BUSES.—Not more than 25 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

[(d) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

[(2) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) applies to projects carried out under this section.

[(e) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

[(1) shall remain available to a project for 2 years after the fiscal year for which the amount is made available or appropriated; and

[(2) that remains unobligated at the end of the period described in paragraph (1) shall be added to the amount made available in the following fiscal year.

§ 5309. Capital investment grants

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

[(1) ALTERNATIVES ANALYSIS.—The term “alternatives analysis” means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

[(A) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

[(B) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

[(C) the selection of a locally preferred alternative; and

[(D) the adoption of the locally preferred alternative as part of the long-range transportation plan required under section 5303.

[(2) MAJOR NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term “major new fixed guideway capital project” means a new fixed guideway capital project for which the Federal assistance

provided or to be provided under this section is \$75,000,000 or more.

[(3) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term “new fixed guideway capital project” means a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

[(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

[(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights-of-way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternatives analysis or preliminary engineering;

[(2) capital projects to modernize existing fixed guideway systems;

[(3) capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private non-profit organizations; and

[(4) the development of corridors to support new fixed guideway capital projects under subsections (d) and (e), including protecting rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park and ride lots, and other nonvehicular capital improvements that the Secretary may decide would result in increased public transportation usage in the corridor.

[(c) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

[(A) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

[(B) the applicant has, or will have—

[(i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

[(ii) satisfactory continuing control over the use of the equipment or facilities; and

[(iii) the capability and willingness to maintain the equipment or facilities.

[(2) CERTIFICATION.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

[(3) GRANTEE REQUIREMENTS.—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate

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for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

[(d) MAJOR CAPITAL INVESTMENT GRANTS OF \$75,000,000 OR MORE.—

[(1) FULL FUNDING GRANT AGREEMENT.—

[(A) IN GENERAL.—A major new fixed guideway capital project shall be carried out through a full funding grant agreement.

[(B) CRITERIA.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving assistance for a major new fixed guideway capital project that—

[(i) is authorized for final design and construction; and

[(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

[(2) APPROVAL OF GRANTS.—The Secretary may approve a grant under this section for a major new fixed guideway capital project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the project is—

[(A) based on the results of an alternatives analysis and preliminary engineering;

[(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use policies and future patterns; and

[(C) supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a reduction in existing public transportation services or level of service to operate the proposed project.

[(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

[(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

[(B) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

[(C) the direct and indirect costs of relevant alternatives;

[(D) factors such as—

[(i) congestion relief;

[(ii) improved mobility;

[(iii) air pollution;

[(iv) noise pollution;

[(v) energy consumption; and

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- [(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;
- [(E) reductions in local infrastructure costs and other benefits achieved through compact land use development, such as positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;
- [(F) the cost of suburban sprawl;
- [(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;
- [(H) population density and current transit ridership in the transportation corridor;
- [(I) the technical capability of the grant recipient to construct the project;
- [(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and
- [(K) other factors that the Secretary determines to be appropriate to carry out this subsection.

[(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

[(A) IN GENERAL.—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;
- [(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and
- [(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the proposed project.

[(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

- [(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;
- [(ii) existing grant commitments;
- [(iii) the degree to which financing sources are dedicated to the proposed purposes;
- [(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and
- [(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

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[(C) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

[(5) PROJECT ADVANCEMENT AND RATINGS.—

[(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

[(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local 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 by this subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating.

[(6) POLICY GUIDANCE.—

[(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new fixed guideway capital project review and evaluation process and criteria—

[(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005; and

[(ii) each time significant changes are made by the Secretary to the process and criteria, but not less frequently than once every 2 years.

[(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

[(i) invite public comment to the policy guidance published under subparagraph (A); and

[(ii) publish a response to the comments received under clause (i).

[(e) CAPITAL INVESTMENT GRANTS LESS THAN \$75,000,000.—

[(1) IN GENERAL.—

[(A) APPLICABILITY OF REQUIREMENTS.—Except as provided by subparagraph (B), a new fixed guideway capital project shall be subject to the requirements of this subsection if the Federal assistance provided or to be provided under this section for the project is less than \$75,000,000 and the total estimated net capital cost of the project is less than \$250,000,000.

[(B) PROJECTS RECEIVING LESS THAN \$25,000,000 IN FEDERAL ASSISTANCE.—If the assistance provided under

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this section with respect to a new fixed guideway capital project is less than \$25,000,000, the requirements of this subsection shall not apply to the project until such date as the final regulation to be issued under paragraph (9) takes effect.

[(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance under this subsection with respect to a proposed project only if the Secretary finds that the project is—

[(A) based on the results of planning and alternatives analysis;

[(B) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

[(C) supported by an acceptable degree of local financial commitment.

[(3) PLANNING AND ALTERNATIVES.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

[(4) PROJECT JUSTIFICATION.—For purposes of making the finding under paragraph (2)(B), the Secretary shall—

[(A) determine the degree to which the project is consistent with local land use policies and is likely to achieve local developmental goals;

[(B) determine the cost effectiveness of the project at the time of the initiation of revenue service;

[(C) determine the degree to which the project will have a positive effect on local economic development;

[(D) consider the reliability of the forecasting methods used to estimate costs and ridership associated with the project; and

[(E) consider other factors that the Secretary determines appropriate to carry out this subsection.

[(5) LOCAL FINANCIAL COMMITMENT.—

[(A) IN GENERAL.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

[(B) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

[(6) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

[(A) GENERAL RULE.—A proposed project under this subsection may advance from planning and alternatives analysis to project development 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.

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[(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required by this subsection and shall give comparable, but not necessarily equal, numerical weight to each project justification criteria in calculating the overall project rating.

[(7) CONTENTS OF PROJECT CONSTRUCTION GRANT AGREEMENT.—A project construction grant agreement under this subsection shall specify the scope of the project to be constructed, the estimated net project cost of the project, the schedule under which the project shall be constructed, the maximum amount of funding to be obtained under this subsection, the proposed schedule for obligation of future Federal grants, and the sources of funding from other than the Government. The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

[(8) LIMITATION ON ENTRY INTO CONSTRUCTION GRANT AGREEMENT.—The Secretary may enter into a project construction grant agreement for a project under this subsection only if the project is authorized for construction and has been rated as high, medium-high, or medium under this subsection.

[(9) REGULATIONS.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.

[(10) FIXED GUIDEWAY CAPITAL PROJECT.—In this subsection, the term “fixed guideway capital project” includes a corridor-based bus capital project if—

[(A) a substantial portion of the project operates in a separate right-of-way dedicated for public transit use during peak hour operations; or

[(B) the project represents a substantial investment in a defined corridor as demonstrated by features such as park-and-ride lots, transit stations, bus arrival and departure signage, intelligent transportation systems technology, traffic signal priority, off-board fare collection, advanced bus technology, and other features that support the long-term corridor investment.

[(11) IMPACT REPORT.—

[(A) IN GENERAL.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects.

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[(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

[(f) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005. Subsection (e) also does not apply to projects for which the Secretary has received an application for final design before such date of enactment.

[(g) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

[(1) LETTERS OF INTENT.—

[(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

[(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31 or an administrative commitment.

[(2) FULL FUNDING GRANT AGREEMENTS.—

[(A) TERMS.—The Secretary may make a full funding grant agreement with an applicant. The agreement shall—

[(i) establish the terms of participation by the 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 law of the United States.

[(B) SPECIAL FINANCIAL RULES.—

[(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.

[(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.

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[(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

[(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

[(C) BEFORE AND AFTER STUDY.—

[(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

[(I) describes and analyzes the impacts of the new fixed guideway capital project on transit services and transit ridership;

[(II) evaluates the consistency of predicted and actual project characteristics and performance; and

[(III) identifies sources of differences between predicted and actual outcomes.

[(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

[(I) SUBMISSION OF PLAN.—Applicants seeking an agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

[(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

[(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

[(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

[(cc) collection of data on the transit system 2 years after the opening of the new fixed guideway capital project, including analogous information on transit service levels and ridership patterns and information on the as-

built scope and capital costs of the project; and

[(dd) analysis of the consistency of predicted project characteristics with the after data.

[(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

[(3) EARLY SYSTEM WORK AGREEMENTS.—

[(A) CONDITIONS.—The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—

[(i) a full funding grant agreement for the project will be made; and

[(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.

[(B) CONTENTS.—

[(i) IN GENERAL.—A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.

[(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

[(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

[(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

[(4) LIMITATION ON AMOUNTS.—

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[(A) MAJOR CAPITAL INVESTMENT GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for major new fixed guideway capital projects may be not more than the greater of the amount authorized under sections 5338(a)(3) and 5338(c) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(A) and (m)(2)(A)(ii) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

[(B) OTHER CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all project construction grant agreements and early system work agreements under this subsection for small capital projects described in subsection (e) may be not more than the greater of the amount allocated under subsection (m)(2)(A)(i) for such projects or an amount equivalent to the last fiscal year of funding allocated under such subsection for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by an agreement. The total amount covered by new contingent commitments included in project construction grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

[(C) INCLUSION OF CERTAIN COMMITMENTS.—Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (106 Stat. 2125) for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005, and 2006 shall be charged against section 3032(g)(2) of that Act.

[(D) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

[(5) NOTIFICATION OF CONGRESS.—At least 60 days before issuing a letter of intent or entering into a full funding grant agreement or project construction grant agreement under this section, the Secretary shall notify, in writing, the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate

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.

[(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—

[(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost. A grant for the project shall be for 80 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

[(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

[(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

[(A) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

[(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

[(4) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

[(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section, including paragraph (1) and subsections (d)(4)(B)(v) and (e)(5), shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

[(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

[(7) LIMITATION ON APPLICABILITY.—This subsection does not apply to projects for which the Secretary has entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

[(i) UNDERTAKING PROJECTS IN ADVANCE.—

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[(1) IN GENERAL.—The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

[(A) the State or local governmental authority applies for the payment;

[(B) the Secretary approves the payment; and

[(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

[(2) FINANCING COSTS.—

[(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

[(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

[(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

[(j) AVAILABILITY OF AMOUNTS.—

[(1) IN GENERAL.—An amount made available or appropriated under section 5338(a)(3)(C)(iii), 5338(a)(3)(C)(iv), 5338(b)(2)(E), or 5338(c) for replacement, rehabilitation, and purchase of buses and related equipment and construction of bus-related facilities or for new fixed guideway capital projects shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.

[(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

[(k) REPORTS ON NEW STARTS.—

[(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate a report that includes—

[(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

[(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Federal Public Transportation Act of 2005; and

[(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

[(2) ANNUAL GAO REVIEW.—The Comptroller General shall—

[(A) conduct an annual review of—

[(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

[(ii) the Secretary's implementation of such processes and procedures; and

[(B) report to Congress on the results of such review by May 31 of each year.

[(1) OTHER REPORTS.—

[(1) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

[(2) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

[(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, and each year thereafter, the Secretary shall submit to the committees referred to in subsection (k)(1) a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing new fixed guideway capital projects.

[(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

[(i) estimates made at the time projects are approved for entrance into final design;

[(ii) costs and ridership when the project commences revenue operation; and

[(iii) costs and ridership when the project has been in operation for 2 years.

[(C) CONSIDERATIONS.—In making comparisons under subparagraph (B), the Secretary shall consider factors having an impact on costs and ridership not under the control of the contractor. The Secretary shall also consider the role taken by each contractor in the development of the project.

[(3) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit to the committees referred to in subsection (k)(1) a report on the suitability of allowing contractors to public transportation agencies that undertake new fixed guideway capital projects under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.

[(m) ALLOCATING AMOUNTS.—

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[(1) FISCAL YEAR 2005.—Of the amounts made available or appropriated for fiscal year 2005 under section 5338(a)(3)—

[(A) \$1,437,829,600 shall be allocated for new fixed capital projects under subsection (d);

[(B) \$1,204,684,800 shall be allocated for capital projects for fixed guideway modernization; and

[(C) \$669,600,000 shall be allocated for capital projects for buses and bus-related equipment and facilities.

[(2) FISCAL YEARS 2006 THROUGH 2011 AND THE PERIOD BEGINNING ON OCTOBER 1, 2011, AND ENDING ON MARCH 31, 2012.—The amounts made available or appropriated for fiscal years 2006 through 2012 under sections 5338(b) and 5338(c) shall be allocated as follows:

[(A) CAPITAL INVESTMENT GRANTS.—Of the amounts appropriated under section 5338(c)—

[(i) \$200,000,000 for each of fiscal years 2007 through 2012 shall be allocated for projects for new fixed guideway capital projects of less than \$75,000,000 in accordance with subsection (e); and

[(ii) the remainder shall be allocated for major new fixed guideway capital projects in accordance with subsection (d).

[(B) FIXED GUIDEWAY MODERNIZATION.—The amounts made available under section 5338(b)(2)(D) shall be allocated for capital projects for fixed guideway modernization.

[(C) BUSES AND BUS-RELATED EQUIPMENT AND FACILITIES.—The amounts made available under section 5338(b)(2)(E) shall be allocated for capital projects for buses and bus-related equipment and facilities.

[(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(D) for fiscal year 2006 and each fiscal year thereafter shall be allocated in accordance with section 5337.

[(4) PRELIMINARY ENGINEERING AND ALTERNATIVES ANALYSIS.—Not more than 8 percent of the allocation described in paragraph (1)(A) may be expended on alternatives analysis and preliminary engineering.

[(5) PRELIMINARY ENGINEERING.—Not more than 8 percent of the allocation described in paragraph (2)(A) may be expended on preliminary engineering.

[(6) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

[(A) \$10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

[(B) \$15,000,000 shall be available in each of fiscal years 2006 through 2012 for capital projects in Alaska and Hawaii for new fixed guideway ferry systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

[(C) \$5,000,000 shall be available for each of fiscal years 2006 through 2012 for payments to the Denali Com-

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mission under the terms of section 307(e) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for docks, waterfront development projects, and related transportation infrastructure.

[(7) BUS AND BUS FACILITY GRANTS.—The amounts made available under paragraphs (1)(C) and (2)(C) shall be allocated as follows:

[(A) FERRY BOAT SYSTEMS.—\$10,000,000 shall be available in each of fiscal years 2006 through 2012 for ferry boats or ferry terminal facilities. Of such funds, the following amounts shall be set aside for each fiscal year:

[(i) \$2,500,000 for the San Francisco Water Transit Authority.

[(ii) \$2,500,000 for the Massachusetts Bay Transportation Authority Ferry System.

[(iii) \$1,000,000 for the Camden, New Jersey Ferry System.

[(iv) \$1,000,000 for the Governor's Island, New York Ferry System.

[(v) \$1,000,000 for the Philadelphia Penn's Landing Ferry Terminal.

[(vi) \$1,000,000 for the Staten Island Ferry.

[(vii) \$650,000 for the Maine State Ferry Service, Rockland.

[(viii) \$350,000 for the Swans Island, Maine Ferry Service.

[(B) FUEL CELL BUS PROGRAM.—The following amounts shall be set aside for the national fuel cell bus technology development program under section 3045 of the Federal Public Transportation Act of 2005:

[(i) \$11,250,000 for fiscal year 2006.

[(ii) \$11,500,000 for fiscal year 2007.

[(iii) \$12,750,000 for fiscal year 2008.

[(iv) \$13,500,000 for fiscal year 2009.

[(v) \$13,500,000 for fiscal year 2010.

[(vi) \$13,500,000 for fiscal year 2011.

[(vii) \$6,750,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.

[(viii) \$13,500,000 for fiscal year 2012.

[(C) PROJECTS NOT IN URBANIZED AREAS.—Not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

[(D) INTERMODAL TERMINALS.—Not less than \$35,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

[(E) BUS TESTING.—\$3,000,000 shall be available in each fiscal year for bus testing under section 5318.

[(8) BUS AND BUS FACILITY GRANT CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(C), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

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[§ 5310. Formula grants for special needs of elderly individuals and individuals with disabilities

[(a) GENERAL AUTHORITY.—

[(1) GRANTS.—The Secretary may make grants to States and local governmental authorities under this section for public transportation capital projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

[(2) SUBRECIPIENTS.—A State that receives a grant under this section may allocate the amounts provided under the grant to—

[(A) a private nonprofit organization, if the public transportation service provided under paragraph (1) is unavailable, insufficient, or inappropriate; or

[(B) a governmental authority that—

[(i) is approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

[(ii) certifies that there are not any nonprofit organizations readily available in the area to provide the services described under paragraph (1).

[(3) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

[(4) ADMINISTRATIVE EXPENSES.—A State or local governmental authority may use not more than 10 percent of the amounts apportioned to the State under this section to administer, plan, and provide technical assistance for a project funded under this section.

[(b) APPORTIONMENT AND TRANSFERS.—

[(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

[(2) TRANSFER OF FUNDS.—Any funds apportioned to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

[(c) GOVERNMENT'S SHARE OF COSTS.—

[(1) CAPITAL PROJECTS.—

[(A) IN GENERAL.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary.

[(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive an increased Government share in accordance with the formula under that section.

[(2) 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;

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[(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

[(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

[(3) USE OF CERTAIN FUNDS.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

[(d) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant under this section shall be subject to all requirements of a grant under section 5307 to the extent the Secretary determines appropriate.

[(2) CERTIFICATION REQUIREMENTS.—

[(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

[(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Beginning in fiscal year 2007, each grant recipient under this section shall certify that—

[(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

[(ii) 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.

[(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

[(e) STATE PROGRAM OF PROJECTS.—

[(1) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects.

[(2) SUBMISSION AND APPROVAL.—A State shall submit to the Secretary annually for approval a program of projects. The program shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.

[(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve trans-



portation services designed to meet the special needs of elderly individuals and individuals with disabilities.

[(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.]

[(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.]

§ 5309. Capital investment grants

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

(1) NEW FIXED GUIDEWAY CAPITAL PROJECT.—The term “new fixed guideway capital project” means an operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

(2) NEW START PROJECT.—The term “new start project” means a new fixed guideway capital project for which the Federal assistance provided or to be provided under this section is \$75,000,000 or more.

(3) SMALL START PROJECT.—The term “small start project” means a new fixed guideway capital project for which—

(A) the Federal assistance provided or to be provided under this section is less than \$75,000,000; and

(B) the total estimated net capital cost is less than \$250,000,000.

(b) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights-of-way, and relocation assistance, for fixed guideway corridor development for projects in the advanced stages of planning or in project development; and

(2) the development of corridors to support new fixed guideway capital projects under subsections (d) and (e), including protecting rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes, park and ride lots, and other nonvehicular capital improvements that the Secretary may determine would result in increased public transportation usage in the corridor.

(c) GRANT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not approve a grant under this section unless the Secretary determines that—

(A) the project is part of an approved long-range transportation plan and program of projects required under sections 5203, 5204, and 5306; and

(B) the applicant has, or will have—

- (i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;
- (ii) satisfactory continuing control over the use of the equipment or facilities; and
- (iii) the capability and willingness to maintain the equipment or facilities.

(2) **CERTIFICATION.**—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

(3) **GRANTEE REQUIREMENTS.**—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

(d) **NEW START PROJECTS.**—

(1) **FULL FUNDING GRANT AGREEMENT.**—

(A) **IN GENERAL.**—A new start project shall be carried out through a full funding grant agreement.

(B) **CRITERIA.**—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving assistance for a new start project that—

- (i) is authorized for project development; and
- (ii) has been rated as high, medium-high, or medium, in accordance with paragraph (5).

(2) **APPROVAL OF GRANTS.**—The Secretary may approve a grant under this section for a new start project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the project—

(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5203;

(B) is based on the results of an evaluation of the benefits of the project as set forth in paragraph (3); and

(C) is supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a reduction in existing public transportation services or level of service to operate the project.

(3) **EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.**—

In making a determination for a new start project under paragraph (2)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative):

- (A) The cost effectiveness of the project.

(B) *The mobility and accessibility benefits of the project, including direct intermodal connectivity with other modes of transportation.*

(C) *The degree of congestion relief anticipated as a result of the project.*

(D) *The reductions in energy consumption and air pollution associated with the project.*

(E) *The economic development effects associated with the project.*

(F) *The private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private strategies.*

(4) **EVALUATION OF LOCAL FINANCIAL COMMITMENT.**—In making a determination for a new start project under paragraph (2)(C), the Secretary shall—

(A) *require that the proposed project plan provide for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;*

(B) *require that each proposed local source of capital and operating financing is stable, reliable, and available within the project timetable;*

(C) *consider private contributions to the project, including cost-effective project delivery, management or transfer of project risks, expedited project schedule, financial partnering, and other public-private partnership strategies;*

(D) *consider the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project; and*

(E) *consider the elements of the overall proposed public transportation system advanced with 100 percent non-Federal funds.*

(5) **RATINGS.**—In carrying out paragraphs (3) and (4) for a new start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local 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 by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

(e) **SMALL START PROJECTS.**—

(1) **IN GENERAL.**—

(A) **APPLICABILITY OF REQUIREMENTS.**—Except as provided by subparagraph (B), a small start project shall be subject to the requirements of this subsection.

(B) **PROJECTS RECEIVING LESS THAN \$25,000,000 IN FEDERAL ASSISTANCE.**—If the assistance provided under this section for a small start project is less than \$25,000,000—

(i) the requirements of this subsection shall not apply to the project if determined appropriate by the Secretary; and

(ii) the Secretary shall utilize special warrants described in subsection (n) to advance the project and provide Federal assistance as appropriate.

(2) **SELECTION CRITERIA.**—The Secretary may provide Federal assistance for a small start project under this subsection only if the Secretary determines that the project—

(A) has been adopted as the locally preferred alternative as part of the long-range transportation plan required under section 5203;

(B) is based on the results of an analysis of the benefits of the project as set forth in paragraph (3); and

(C) is supported by an acceptable degree of local financial commitment.

(3) **EVALUATION OF BENEFITS AND FEDERAL INVESTMENT.**—In making a determination for a small start project under paragraph (2)(B), the Secretary shall analyze, evaluate, and consider the following evaluation criteria for the project (as compared to a no-action alternative):

(A) The cost effectiveness of the project.

(B) The mobility and accessibility benefits of the project, including direct intermodal connectivity with other modes of transportation.

(C) The degree of congestion relief anticipated as a result of the project.

(D) The economic development effects associated with the project.

(4) **EVALUATION OF LOCAL FINANCIAL COMMITMENT.**—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

(5) **RATINGS.**—In carrying out paragraphs (3) and (4) for a small start project, the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on an evaluation of the benefits of the project as compared to the Federal assistance to be provided and the degree of local 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 by this subsection and shall give comparable, but not necessarily equal, numerical weight to the benefits that the project will bring to the community in calculating the overall project rating.

(6) **GRANTS AND EXPEDITED GRANT AGREEMENTS.**—

(A) **IN GENERAL.**—The Secretary, to the maximum extent practicable, shall provide Federal assistance under this subsection in a single grant. If the Secretary cannot provide such a single grant, the Secretary may execute an expedited grant agreement in order to include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

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(B) **TERMS OF EXPEDITED GRANT AGREEMENTS.**—*In executing an expedited grant agreement under this subsection, the Secretary may include in the agreement terms similar to those established under subsection (g)(2)(A).*

(C) **NOTICE OF PROPOSED GRANTS AND EXPEDITED GRANT AGREEMENTS.**—*At least 10 days before making a grant award or entering into a grant agreement for a project under this subsection, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate of the proposed grant or expedited grant agreement, as well as the evaluations and ratings for the project.*

(7) **INCLUSION OF CORRIDOR-BASED CAPITAL PROJECTS.**—*In this subsection, the term "small start project" includes a corridor-based capital project if—*

(A) *a majority of the project operates in a separate right-of-way dedicated for transit use during peak hour operations; or*

(B) *the project represents a substantial investment in a defined corridor as demonstrated by investment in fixed transit facilities and equipment such as substantial transit stations, intelligent transportation systems technology, traffic signal priority, off-board fare collection, and other direct investments in the corridor.*

(f) **PREVIOUSLY ISSUED LETTER OF INTENT OR GRANT AGREEMENT.**—*Subsections (d) and (e) do not apply to projects for which the Secretary has issued a letter of intent, entered into an early systems work agreement or a full funding grant agreement, or has been approved to enter final design before the date of enactment of the Public Transportation Act of 2012.*

(g) **LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.**—

(1) **LETTERS OF INTENT.**—

(A) **AMOUNTS INTENDED TO BE OBLIGATED.**—*The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a new start project, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.*

(B) **TREATMENT.**—*The issuance of a letter under subparagraph (A) is deemed not to be an obligation under section 1108(c), 1108(d), 1501, or 1502(a) of title 31 or an administrative commitment.*

(2) **FULL FUNDING GRANT AGREEMENTS.**—

(A) **TERMS.**—*The Secretary may enter into a full funding grant agreement with an applicant for a grant under this section for a new start project. The agreement shall—*

(i) *establish the terms of participation by the Government in the project;*

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

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

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

(v) establish terms requiring the applicant to repay all Government payments made under the agreement (plus such reasonable interest and penalty charges as are established by the Secretary in the agreement) if the applicant does not carry out the project for reasons within the control of the applicant.

(B) SPECIAL FINANCIAL RULES.—

(i) **IN GENERAL.**—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment (contingent on amounts to be specified in law in advance for commitments under this paragraph) to obligate an additional amount from future available budget authority specified in law.

(ii) **STATEMENT OF CONTINGENT COMMITMENT.**—The full funding grant agreement shall state that the contingent commitment is not an obligation of the Government.

(iii) **INTEREST AND OTHER FINANCING COSTS.**—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) **COMPLETION OF OPERABLE SEGMENT.**—The amount stipulated in a full funding grant agreement for a new start project shall be sufficient to complete at least one operable segment.

(C) BEFORE AND AFTER STUDY.—

(i) **IN GENERAL.**—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—

(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

(II) evaluates the consistency of predicted and actual project characteristics and performance; and

(III) identifies sources of differences between predicted and actual outcomes.

(ii) **INFORMATION COLLECTION AND ANALYSIS PLAN.**—

(I) *SUBMISSION OF PLAN.*—An applicant seeking a full funding grant agreement under this paragraph shall submit to the Secretary a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of the plan shall be included in the agreement as an eligible activity.

(II) *CONTENTS OF PLAN.*—The plan submitted under subclause (I) shall provide for—

(aa) the collection of data on the current transit system of the applicant regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

(cc) collection of data on the transit system of the applicant 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the project; and

(dd) an analysis of the consistency of predicted project characteristics with the data collected under item (cc).

(D) *COLLECTION OF DATA ON CURRENT SYSTEM.*—To be eligible to enter into a full funding grant agreement under this paragraph for a new start project, an applicant shall have collected data on the current transit system of the applicant, according to the plan required under subparagraph (C)(ii), before the beginning of construction of the project. Collection of the data shall be included in the full funding grant agreement as an eligible activity.

(3) *EARLY SYSTEMS WORK AGREEMENTS.*—

(A) *CONDITIONS.*—The Secretary may enter into an early systems work agreement with an applicant for a new start project if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe a full funding grant agreement for the project will be made.

(B) *CONTENTS.*—

(i) *IN GENERAL.*—A work agreement under this paragraph for a new start project obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary de-

cides are appropriate to make efficient, long-term project management easier.

(ii) *PERIOD COVERED.*—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.

(iii) *INTEREST AND OTHER FINANCING COSTS.*—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(iv) *FAILURE TO CARRY OUT PROJECT.*—If, after entering into a work agreement under this paragraph for a new start project, an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.

(4) *LIMITATION ON AMOUNTS.*—

(A) *NEW START GRANTS CONTINGENT COMMITMENT AUTHORITY.*—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for new start projects may be not more than the greater of the amount authorized under section 5338(b) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsection (m)(2)(B) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for the projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.

(B) *APPROPRIATION REQUIRED.*—An obligation may be made under this subsection only when amounts are appropriated for the obligation.

(5) *NOTIFICATION OF CONGRESS.*—At least 10 days before issuing a letter of intent or an early systems work agreement under this section, and at least 21 days before entering into a full funding grant agreement under this section, the Secretary shall notify, in writing, the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter

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or agreement as well as the evaluations and ratings for the project.

(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—

(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net capital project cost of a new fixed guideway capital project. A grant under this section for the project shall be for 80 percent of the net capital project cost unless the grant recipient requests a lower grant percentage.

(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

(3) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital from public or private sources.

(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as authorizing the Secretary to request or require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

(5) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(i) UNDERTAKING PROJECTS IN ADVANCE.—

(1) IN GENERAL.—The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the State or local governmental authority applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same manner as other projects under this section.

(2) FINANCING COSTS.—

(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

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(B) *LIMITATION ON AMOUNT OF INTEREST.*—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

(C) *CERTIFICATION.*—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

(j) *AVAILABILITY OF AMOUNTS.*—An amount made available or appropriated under section 5338(b) for new fixed guideway capital projects shall remain available for a period of 3 fiscal years after the fiscal year in which the amount is made available or appropriated. Any of such amount that is unobligated at the end of such period shall be rescinded and deposited in the general fund of the Treasury, where such amounts shall be dedicated for the sole purpose of deficit reduction and prohibited from use as an offset for other spending increases or revenue reductions.

(k) *REPORTS ON NEW START PROJECTS.*—

(1) *ANNUAL REPORT ON FUNDING RECOMMENDATIONS.*—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate a report that includes—

(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Public Transportation Act of 2012; and

(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

(2) *BIENNIAL GAO REVIEW.*—Beginning 2 years after the date of enactment of the Public Transportation Act of 2012, the Comptroller General of the United States shall—

(A) conduct a biennial review of—

(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

(ii) the Secretary's implementation of such processes and procedures; and

(B) on a biennial basis, report to Congress on the results of such review by May 31.

(l) *BEFORE AND AFTER STUDY REPORT.*—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

(m) *LIMITATIONS.*—

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(1) *LIMITATION ON GRANTS.*—The Secretary may make a grant or enter into a grant agreement for a new fixed guideway capital project under this section only if the project has been rated as high, medium-high, or medium or the Secretary has issued a special warrant described in subsection (n) in lieu of such ratings.

(2) *FISCAL YEARS 2013 THROUGH 2016.*—Of the amounts made available or appropriated for fiscal years 2013 through 2016 under section 5338(b)—

(A) \$150,000,000 for each fiscal year shall be allocated for small start projects in accordance with subsection (e); and

(B) the remainder shall be allocated for new start projects in accordance with subsection (d).

(3) *LIMITATION ON EXPENDITURES.*—None of the amounts made available or appropriated under section 5338(b) may be expended on a project that has not been adopted as the locally preferred alternative as part of a long-range transportation plan.

(n) *EXPEDITED PROJECT ADVANCEMENT.*—

(1) *WARRANTS.*—The Secretary, to the maximum extent practicable, shall develop and utilize special warrants to advance projects and provide Federal assistance under this section. Special warrants may be utilized to advance new fixed guideway projects under this section without requiring evaluations and ratings described under subsections (d)(5) and (e)(5). Such warrants shall be—

(A) based on current transit ridership, corridor characteristics, and service on existing alignments;

(B) designed to assess distinct categories of projects, such as proposed new service enhancements on existing alignments, new line haul service, and new urban circulator service; and

(C) based on the benefits for proposed projects as set forth in subsections (d)(3) and (e)(3) for the Federal assistance provided or to be provided under this subsection.

(2) *NEW PROJECT DEVELOPMENT.*—

(A) *IN GENERAL.*—A project sponsor who requests Federal funding under this section shall apply to the Secretary to begin new project development after a proposed new fixed guideway capital project has been adopted as the locally preferred alternative as part of the metropolitan long-range transportation plan required under section 5303, and funding options for the non-Federal funding share have been identified. The application for new project development shall specify whether the project sponsor is seeking Federal assistance under subsection (d) or (e).

(B) *APPLICATIONS.*—

(i) *NOTICE TO CONGRESS.*—Not later than 10 days after the date of receipt of an application for new project development under subparagraph (A), the Secretary shall provide written notice of the application to the Committee on Transportation and Infrastructure of

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the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(ii) APPROVAL OR DISAPPROVAL.—On the 11th day following the date on which the Secretary provides written notice of an application for new project development under clause (i), the Secretary shall approve or disapprove the application.

(C) PROJECT AUTHORIZATION.—Upon approval of an application to begin new project development, the proposed new fixed guideway capital project shall be authorized and eligible for Federal funding under this section.

(3) LETTERS OF INTENT AND EARLY SYSTEMS WORK AGREEMENTS.—The Secretary, to the maximum extent practicable, shall issue letters of intent and make early systems work agreements upon issuance of a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) FUNDING AGREEMENTS.—The Secretary shall enter into a full funding grant agreement, expedited grant agreement, or grant, as appropriate, between the Government and the project sponsor as soon as the Secretary determines that the project meets the requirements of subsection (d) or (e).

(5) RECORDS RETENTION.—The Secretary shall adhere to a uniform records retention policy regarding all documentation related to new fixed guideway capital projects.

(o) REGULATIONS.—Not later than 240 days after the date of enactment of the Public Transportation Act of 2012, the Secretary shall issue regulations establishing new program requirements for the programs created under this section, including new evaluation and rating processes for proposed projects under this section.

§ 5310. Bus and bus facilities formula grants

(a) GENERAL AUTHORITY.—The Secretary may make grants under this section to assist States and local governmental authorities in financing capital projects—

(1) to replace, rehabilitate, and purchase buses and related equipment; and

(2) to construct bus-related facilities.

(b) GRANT REQUIREMENTS.—The requirements of subsections (c) and (d) of section 5307 apply to recipients of grants made under this section.

(c) ELIGIBLE RECIPIENTS AND SUBRECIPIENTS.—

(1) RECIPIENTS.—Eligible recipients under this section are providers of public transportation in urbanized areas that operate fixed route bus services and that do not operate heavy rail, commuter rail, or light rail services.

(2) SUBRECIPIENTS.—A recipient that receives a grant under this section may allocate the amounts provided to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations.

(d) DISTRIBUTION OF GRANT FUNDS.—Grants under this section shall be distributed pursuant to the formula set forth in section 5336 other than subsection (b).

(e) GOVERNMENT'S SHARE OF COSTS.—

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(1) CAPITAL PROJECTS.—A grant for a capital project, as defined in section 5302(a)(1), shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.

(2) REMAINING COSTS.—The remainder of the net project cost shall be provided—

(A) in cash from non-Government sources other than revenues from providing public transportation services;

(B) from revenues derived from the sale of advertising and concessions;

(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

(D) from amounts received under a service agreement with a State or local social service agency or private social service organization.

(f) PERIOD OF AVAILABILITY TO RECIPIENTS.—A grant made available under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(g) TRANSFERS OF APPORTIONMENTS.—

(1) TRANSFER TO CERTAIN AREAS.—The chief executive officer of a State may transfer any part of the State's funds made available under this section to urbanized areas of less than 200,000 in population or to rural areas in the State, after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was provided under this section.

(2) TRANSFER TO STATE.—A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its grant funds provided under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas of less than 200,000 in population or to rural areas in the State.

(h) APPLICATION OF OTHER SECTIONS.—Sections 5302, 5318, 5323(a)(1), 5323(d), 5323(f), 5332, and 5333 apply to this section and to a grant made with funds apportioned under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant under this section.

[§ 5311. Formula grants for other than urbanized areas]

§ 5311. Rural area formula grants

(a) * * *

(b) GENERAL AUTHORITY.—

(1) * * *

* * * * *

(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

(A) * * *

* * * * *

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(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States. *In carrying out such projects, the Secretary shall enter into a competitively selected contract to provide on-site technical assistance to local and regional governments, public transit agencies, and public transportation-related nonprofit and for-profit organizations in rural areas for the purpose of developing training materials and providing necessary training assistance to local officials and agencies in rural areas.*

* * * * *

(5) PROGRAM GOALS.—*The goals of this section are—*

(A) *to enhance the mobility and access of people in rural areas by assisting in the development, construction, operation, improvement, maintenance, and use of public transportation systems and services in rural areas;*

(B) *to increase the intermodalism of and connectivity among public transportation systems and services within rural areas and to urban areas by providing for maximum coordination of programs and services;*

(C) *to increase the state of good repair of rural public transportation assets; and*

(D) *to enhance the mobility and access of people in rural areas by assisting in the development and support of intercity bus transportation.*

(c) APPORTIONMENTS.—

[(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—

Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

[(A) \$8,000,000 for fiscal year 2006.

[(B) \$10,000,000 for fiscal year 2007.

[(C) \$12,000,000 for fiscal year 2008.

[(D) \$15,000,000 for fiscal year 2009.

[(E) \$15,000,000 for fiscal year 2010.

[(F) \$15,000,000 for fiscal year 2011.

[(G) \$15,000,000 for fiscal year 2012.]

(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338 that are not apportioned under paragraph (1)—

(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); [and]

[(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).]

(B) 70 percent shall be apportioned to the States in accordance with paragraph (4); and

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(C) 10 percent shall be apportioned to the States in accordance with paragraph (5).

* * * * *

(5) APPORTIONMENTS BASED ON PUBLIC TRANSPORTATION SERVICES PROVIDED IN RURAL AREAS.—The Secretary shall apportion to each State an amount equal to the amount apportioned under paragraph (2)(C) as follows:

- (A) 1/2 of such amount multiplied by the ratio that—
 - (i) the number of public transportation revenue vehicle-miles operated in or attributable to rural areas in that State, as determined by the Secretary; bears to
 - (ii) the total number of all public transportation revenue vehicle-miles operated in or attributable to rural areas in all States; and
- (B) 1/2 of such amount multiplied by the ratio that—
 - (i) the number of public transportation unlinked passenger trips operated in or attributable to rural areas in that State, as determined by the Secretary; bears to
 - (ii) the total number of all public transportation unlinked passenger trips operated in or attributable to rural areas in all States.

* * * * *

(e) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary of Transportation may allow a State to use not more than [15 percent] 10 percent of the amount apportioned under this section to administer this section and provide technical assistance to a subrecipient, including project planning, program and management development, coordination of public transportation programs, and research the State considers appropriate to promote effective delivery of public transportation to an area other than an urbanized area.

(f) INTERCITY BUS TRANSPORTATION.—

(1) IN GENERAL.—A State shall expend at least 15 percent of the amount made available in each fiscal year to carry out a program to develop and support intercity bus transportation. Eligible activities under the program include—

- (A) * * *
- (B) capital grants for intercity bus [shelters] facilities;
- (C) joint-use [stops and depots] facilities;

* * * * *

(g) GOVERNMENT SHARE OF COSTS.—

(1) * * *

* * * * *

(3) REMAINDER.—The remainder of net project costs—

- (A) * * *
- (B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; [and]

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(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23[.]; and

(D) may be derived from the costs of a private operator's intercity bus service as an in-kind match for the operating costs of connecting rural intercity bus feeder service funded under subsection (f), except that this subparagraph shall apply only if the project includes both feeder service and a connecting unsubsidized intercity route segment and if the private operator agrees in writing to the use of its unsubsidized costs as an in-kind match.

* * * * *

[§ 5312. Research, development, demonstration, and deployment projects]

§ 5312. Transit research

(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—

(1) * * *

* * * * *

(4) FUNDING.—The amounts made available under section 5338(c) are available to the Secretary for grants, contracts, cooperative agreements, or other agreements for the purposes of this section and sections 5305 and 5322, as the Secretary considers appropriate.

(b) JOINT PARTNERSHIP PROGRAM FOR DEPLOYMENT OF INNOVATION.—

(1) * * *

* * * * *

(5) USE OF REVENUES.—The Secretary shall accept, to the maximum extent practicable, a portion of the revenues resulting from sales of an innovation project funded under this section. Such revenues shall be accounted for separately within the [Mass Transit Account] *Alternative Transportation Account* of the Highway Trust Fund and shall be available to the Secretary for activities under this subsection. Annual revenues that are less than \$1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation.

[(c) INTERNATIONAL PUBLIC TRANSPORTATION PROGRAM.—

[(1) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the United States domestic public transportation community about technological innovations available in the international marketplace and activities that may afford domestic businesses the opportunity to become globally competitive in the export of public transportation products and services. Such activities may include—

[(A) development, monitoring, assessment, and dissemination domestically of information about worldwide public transportation market opportunities;

[(B) cooperation with foreign public sector entities in research, development, demonstration, training, and other forms of technology transfer and exchange of experts and information;

[(C) advocacy, in international public transportation markets, of firms, products, and services available from the United States;

[(D) informing the international market about the technical quality of public transportation products and services through participation in seminars, expositions, and similar activities; and

[(E) offering those Federal Transit Administration technical services which cannot be readily obtained from the United States private sector to foreign public authorities planning or undertaking public transportation projects if the cost of these services will be recovered under the terms of each project.

[(2) COOPERATION.—The Secretary may carry out activities under this subsection in cooperation with other Federal agencies, State or local agencies, public or private nonprofit institutions, government laboratories, foreign governments, or any other organization the Secretary determines is appropriate.

[(3) FUNDING.—The funds available to carry out this subsection shall include revenues paid to the Secretary by any cooperating organization or person. Such revenues shall be available to the Secretary to carry out activities under this subsection, including promotional materials, travel, reception, and representation expenses necessary to carry out such activities. Annual revenues that are less than \$1,000,000 shall be available for obligation without further appropriation and shall not be subject to any obligation limitation. Not later than January 1 of each fiscal year, the Secretary shall publish a report on the activities under this paragraph funded from the account.]

(c) *TRANSIT COOPERATIVE RESEARCH PROGRAM.*—

(1) *IN GENERAL.*—*The Secretary shall carry out a public transportation cooperative research program using amounts made available under section 5338(c).*

(2) *INDEPENDENT GOVERNING BOARD.*—*The Secretary shall establish an independent governing board for the program. The board shall recommend public transportation research, development, and technology transfer activities to be carried out under the program.*

(3) *GRANTS AND COOPERATIVE AGREEMENTS.*—*The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary determines appropriate.*

(d) *GOVERNMENT SHARE.*—*If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with that benefit.*

[§ 5313. Transit cooperative research program

[(a) COOPERATIVE RESEARCH PROGRAM.—The amounts made available under subsections (a)(5)(C)(iii) and (d)(1) of section 5338 are available for a public transportation cooperative research program. The Secretary of Transportation shall establish an independent governing board for the program. The board shall recommend public transportation research, development, and technology transfer activities the Secretary considers appropriate.

[(b) FEDERAL ASSISTANCE.—The Secretary may make grants to, and cooperative agreements with, the National Academy of Sciences to carry out activities under this subsection that the Secretary decides are appropriate.

[(c) GOVERNMENT'S SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with that benefit.

[§ 5314. National research programs

[(a) PROGRAM.—(1) The amounts made available under section 5338(d) are available to the Secretary of Transportation for grants, contracts, cooperative agreements, or other agreements for the purposes of sections 5312, 5315, and 5322 of this title, as the Secretary considers appropriate.

[(2) The Secretary shall provide public transportation-related technical assistance, demonstration programs, research, public education, and other activities the Secretary considers appropriate to help public transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.). To the extent practicable, the Secretary shall carry out this paragraph through a contract with a national nonprofit organization serving individuals with disabilities that has a demonstrated capacity to carry out the activities.

[(3) Not more than 25 percent of the amounts available under paragraph (1) of this subsection is available to the Secretary for special demonstration initiatives, subject to terms the Secretary considers consistent with this chapter, except that section 5333(b) of this title applies to an operational grant financed in carrying out section 5312(a) of this title. For a nonrenewable grant of not more than \$100,000, the Secretary shall provide expedited procedures on complying with the requirements of this chapter.

[(4)(A) The Secretary may undertake a program of public transportation technology development in coordination with affected entities.

[(B) The Secretary shall develop guidelines for cost sharing in technology development projects financed under this paragraph. The guidelines shall be flexible and reflect the extent of technical risk, market risk, and anticipated supplier benefits and payback periods.

[(5) The Secretary may use amounts appropriated under this subsection to supplement amounts available under section 5313(a) of this title, as the Secretary considers appropriate.

[(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

[(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under para-

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graph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

[(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

[(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

[(ii) is an agency of a State or unit of local government.

[(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

[(D) APPLICATION.—

[(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

[(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

[(I) high incidence of renal disease; and

[(II) limited access to dialysis facilities.

[(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

[(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

[(b) GOVERNMENT'S SHARE.—When there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other agreement under subsection (a) or section 5312, the Secretary shall establish a United States Government share consistent with the benefit.

[(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

[(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

[(2) ELIGIBILITY.—An organization shall be eligible to receive a grant under paragraph (1) if the organization—

[(A) focuses significantly on serving the needs of the elderly;

[(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

[(C) has affiliates in a majority of the States;

[(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

[(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

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[(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

[(A) gather best practices from throughout the Nation and provide such practices to local communities that are implementing senior transportation programs;

[(B) work with teams from local communities to identify how the communities are successfully meeting the transportation needs of senior citizens and any gaps in services in order to create a plan for an integrated senior transportation program;

[(C) provide resources on ways to pay for senior transportation services;

[(D) create a web site to publicize and circulate information on senior transportation programs;

[(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

[(F) administer the demonstration grant program established under paragraph (4).

[(4) GRANTS AUTHORIZED.—

[(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

[(i) local transportation organizations;

[(ii) State agencies;

[(iii) units of local government; and

[(iv) nonprofit organizations.

[(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

[(i) evaluate the state of transportation services for senior citizens;

[(ii) recognize barriers to mobility that senior citizens encounter in their communities;

[(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

[(iv) identify future transportation needs of senior citizens within local communities; and

[(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

[(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this paragraph based on a fair representation of various geographical locations throughout the United States.

[§ 5315. National transit institute

[(a) ESTABLISHMENT.—The Secretary shall award grants to Rutgers University to conduct a national transit institute.

[(b) DUTIES.—

[(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under subsection (a) shall de-

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velop and conduct training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

[(2) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

- [(A) intermodal and public transportation planning;
- [(B) management;
- [(C) environmental factors;
- [(D) acquisition and joint use rights-of-way;
- [(E) engineering and architectural design;
- [(F) procurement strategies for public transportation systems;
- [(G) turnkey approaches to delivering public transportation systems;
- [(H) new technologies;
- [(I) emission reduction technologies;
- [(J) ways to make public transportation accessible to individuals with disabilities;
- [(K) construction, construction management, insurance, and risk management;
- [(L) maintenance;
- [(M) contract administration;
- [(N) inspection;
- [(O) innovative finance;
- [(P) workplace safety; and
- [(Q) public transportation security.

[(c) PROVIDING EDUCATION AND TRAINING.—Education and training of Government, State, and local transportation employees under this section shall be provided—

[(1) by the Secretary at no cost to the States and local governments for subjects that are a Government program responsibility; or

[(2) when the education and training are paid under subsection (d) of this section, by the State, with the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

[(d) AVAILABILITY OF AMOUNTS.—Not more than .5 percent of the amounts made available for a fiscal year beginning after September 30, 1991, to a State or public transportation authority in the State to carry out sections 5307 and 5309 of this title is available for expenditure by the State and public transportation authorities in the State, with the approval of the Secretary, to pay not more than 80 percent of the cost of tuition and direct educational expenses related to educating and training State and local transportation employees under this section.

[\$ 5316. Job access and reverse commute formula grants

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

[(1) ACCESS TO JOBS PROJECT.—The term “access to jobs project” means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including—

[(A) transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

[(B) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

[(C) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

[(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

[(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term “eligible low-income individual” means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

[(3) RECIPIENT.—The term “recipient” means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

[(4) REVERSE COMMUTE PROJECT.—The term “reverse commute project” means a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities, including any projects to—

[(A) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and other than urbanized areas to suburban workplaces;

[(B) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

[(C) otherwise facilitate the provision of public transportation services to suburban employment opportunities.

[(5) SUBRECIPIENT.—The term “subrecipient” means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

[(6) WELFARE RECIPIENT.—The term “welfare recipient” means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

[(b) GENERAL AUTHORITY.—

[(1) GRANTS.—The Secretary may make grants under this section to a recipient for access to jobs and reverse commute projects carried out by the recipient or a subrecipient.

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[(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

[(c) APPORTIONMENTS.—

[(1) FORMULA.—The Secretary shall apportion amounts made available for a fiscal year to carry out this section as follows:

[(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

[(i) the number of eligible low-income individuals and welfare recipients in each such urbanized area; bears to

[(ii) the number of eligible low-income individuals and welfare recipients in all such urbanized areas.

[(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

[(i) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

[(ii) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

[(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

[(i) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in each State; bears to

[(ii) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in all States.

[(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

[(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

[(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

[(C) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

[(3) EXCEPTIONS.—A State may use funds apportioned under paragraphs (1)(B) and (1)(C)—

[(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or

[(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

[(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

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[(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

[(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

[(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

[(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

[(e) TRANSFERS.—

[(1) IN GENERAL.—A State may transfer any funds apportioned to it under subsection (c)(1)(B) or (c)(1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

[(2) LIMITED TO ELIGIBLE PROJECTS.—Any apportionment transferred under this subsection shall be made available only for eligible job access and reverse commute projects as described in this section.

[(3) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

[(f) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.

[(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

[(g) COORDINATION.—

[(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

[(2) WITH NONPROFIT PROVIDERS.—A State that transfers funds to an apportionment under section 5336 pursuant to subsection (e) shall certify to the Secretary that any project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

[(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary 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.

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[(h) GOVERNMENT'S SHARE OF COSTS.—

[(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

[(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

[(3) 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.

[(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

[(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

[(i) PROGRAM EVALUATION.—

[(1) COMPTROLLER GENERAL.—Beginning one year after the date of enactment of the Federal Public Transportation Act of 2005, and every 2 years thereafter, the Comptroller General shall—

[(A) conduct a study to evaluate the grant program authorized by this section; and

[(B) 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 describing the results of the study under subparagraph (A).

[(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of Federal Public Transportation Act of 2005, the Secretary shall—

[(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipients making grants to subrecipients under this section; and

[(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).

[§ 5317. New freedom program

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

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[(1) RECIPIENT.—The term “recipient” means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

[(2) SUBRECIPIENT.—The term “subrecipient” means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.

[(b) GENERAL AUTHORITY.—

[(1) GRANTS.—The Secretary may make grants under this section to a recipient for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

[(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

[(c) APPORTIONMENTS.—

[(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:

[(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—

[(i) the number of individuals with disabilities in each such urbanized area; bears to

[(ii) the number of individuals with disabilities in all such urbanized areas.

[(B) 20 percent of the funds shall be apportioned among the States in the ratio that—

[(i) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in each State; bears to

[(ii) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in all States.

[(C) 20 percent of the funds shall be apportioned among the States in the ratio that—

[(i) the number of individuals with disabilities in other than urbanized areas in each State; bears to

[(ii) the number of individuals with disabilities in other than urbanized areas in all States.

[(2) USE OF APPORTIONED FUNDS.—Funds apportioned under paragraph (1) shall be used for projects as follows:

[(A) Funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more.

[(B) Funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000.

[(C) Funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.

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[(3) TRANSFERS.—

[(A) IN GENERAL.—A State may transfer any funds apportioned to it under paragraph (1)(B) or (1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.

[(B) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to this paragraph shall be made available only for eligible projects selected under this section.

[(C) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).

[(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—

[(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

[(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

[(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

[(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

[(e) GRANT REQUIREMENTS.—

[(1) IN GENERAL.—A grant under this section shall be subject to all the requirements of section 5310 to the extent the Secretary considers appropriate.

[(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

[(f) COORDINATION.—

[(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

[(2) WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.

[(3) PROJECT SELECTION AND PLANNING.—Beginning in fiscal year 2007, a recipient of funds under this section shall certify that—

[(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

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[(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.

[(g) GOVERNMENT'S SHARE OF COSTS.—

[(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

[(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

[(3) 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.

[(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

[(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.]

§ 5317. Coordinated access and mobility program formula grants

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

(1) ELDERLY INDIVIDUAL.—The term "elderly individual" means an individual who is age 65 or older.

(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term "eligible low-income individual" means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902), including any revision required by that section) for a family of the size involved.

(3) JOB ACCESS AND REVERSE COMMUTE PROJECT.—The term "job access and reverse commute project" means a transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations.

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(4) **RECIPIENT.**—The term “recipient” means a designated recipient (as defined in section 5307(a)) and a State that directly receives a grant under this section.

(5) **SUBRECIPIENT.**—The term “subrecipient” means a State or local governmental authority, nonprofit organization, or private operator of public transportation services that receives a grant under this section indirectly through a recipient.

(6) **WELFARE RECIPIENT.**—The term “welfare recipient” means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

(b) **GOALS.**—The goals of the program established under this section are to—

(1) improve the accessibility of the Nation’s public transportation systems and services;

(2) improve the mobility of or otherwise meet the special needs of elderly individuals, eligible low-income individuals, and individuals with disabilities; and

(3) improve the coordination among all providers of public transportation and human services transportation.

(c) **GENERAL AUTHORITY.**—

(1) **GRANTS.**—The Secretary may make grants under this section to recipients for the following purposes:

(A) For public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

(B) For job access and reverse commute projects carried out by the recipient or a subrecipient.

(C) For new public transportation services, and for public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

(2) **ACQUIRING PUBLIC TRANSPORTATION SERVICES.**—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

(3) **ADMINISTRATIVE EXPENSES.**—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.

(d) **APPORTIONMENTS.**—

(1) **FORMULA.**—The Secretary, using the most recent decennial census data, shall apportion amounts made available for a fiscal year to carry out this section as follows:

(A) 50 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)) for urbanized areas with a population of 200,000 or more in the ratio that—

(i) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and

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welfare recipients in each such urbanized area; bears to

(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in all such urbanized areas.

(B) 25 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to

(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in urbanized areas with a population of less than 200,000 in all States.

(C) 25 percent of the funds shall be apportioned among the States in the ratio that—

(i) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in rural areas with a population of less than 50,000 in each State; bears to

(ii) the number of elderly individuals, individuals with disabilities, eligible low-income individuals, and welfare recipients in rural areas with a population of less than 50,000 in all States.

(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—

(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;

(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and

(C) funds apportioned under paragraph (1)(C) shall be used for projects serving rural areas.

(3) EXCEPTIONS.—A State may use funds apportioned under paragraph (1)(B) or (1)(C)—

(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or

(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.

(4) MINIMUM APPORTIONMENT.—

(A) IN GENERAL.—The Secretary may establish a minimum apportionment for States and territories under paragraph (1).

(B) LIMITATION.—A minimum apportionment received by a State or territory under this paragraph for a fiscal year may not exceed the total of the fiscal year 2012 apportionments received by the State or territory under sections 5310, 5316, and 5317 (as in effect on the day before the

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date of enactment of the Public Transportation Act of 2012).

(e) **COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.**—

(1) **AREAWIDE SOLICITATIONS.**—A recipient of funds apportioned under subsection (d)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.

(2) **STATEWIDE SOLICITATION.**—A recipient of funds apportioned under subsection (d)(1)(B) or (d)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.

(3) **SPECIAL RULE.**—A recipient of a grant under this section may allocate the amounts provided under the grant to—

(A) a nonprofit organization or private operator of public transportation, if the public transportation service provided under subsection (c)(1) is unavailable, insufficient, or inappropriate; or

(B) in the case of a grant to provide the services described in subsection (c)(1)(A), a governmental authority that—

(i) is approved by the recipient to coordinate services for elderly individuals and individuals with disabilities; or

(ii) certifies that there are not any nonprofit organizations or private operators of public transportation services readily available in the area to provide the services described in subsection (c)(1)(A).

(4) **APPLICATION.**—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (d) shall submit to the recipient an application in such form and in accordance with such requirements as the recipient shall establish.

(5) **GRANT AWARDS.**—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.

(6) **FAIR AND EQUITABLE DISTRIBUTION.**—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients will be distributed on a fair, equitable, and competitive basis.

(f) **GRANT REQUIREMENTS.**—With respect to a grant made to provide services described in subsection (c), the Secretary shall apply grant requirements that are consistent with requirements for activities authorized under sections 5310, 5316, and 5317 (as such sections were in effect on the day before the date of enactment of the Public Transportation Act of 2012).

(g) **COORDINATION.**—

(1) **IN GENERAL.**—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

(2) **PROJECT SELECTION AND PLANNING.**—A recipient of funds under this section shall certify to the Secretary that—

(A) the projects selected to receive funding under this section were derived from a locally developed, coordinated public transportation-human services transportation plan;

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(B) the plan was developed through a process that included participation by representatives of public, private, and nonprofit transportation and human services providers and participation by the public and appropriate advocacy organizations; and

(C) the planning process provided for consideration of projects and strategies to create or improve regional transportation services that connect multiple jurisdictions.

(h) GOVERNMENT'S SHARE OF COSTS.—

(1) CAPITAL PROJECTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary. The recipient may provide additional local matching amounts.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive an increased Government share in accordance with the formula under such section.

(2) OPERATING ASSISTANCE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs that equals 62.5 percent of the Government share provided for under paragraph (1)(B).

(3) 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;

(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; and

(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands transportation program established by section 203 of title 23.

(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(i) LEASING VEHICLES.—Vehicles and equipment acquired under this section may be leased to a recipient or subrecipient to improve transportation services designed to meet the special needs of elderly individuals, eligible low-income individuals, and individuals with disabilities.

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(j) **MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.**—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

(k) **TRANSFERS OF FACILITIES AND EQUIPMENT.**—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

(l) **PROGRAM EVALUATION.**—Not later than 2 years after the date of enactment of the Public Transportation Act of 2012, and not later than 2 years thereafter, the Comptroller General of the United States shall—

(1) conduct a study to evaluate the grant program authorized by this section, including a description of how grant recipients have coordinated activities carried out under this section with transportation activities carried out by recipients using grants awarded under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.); and

(2) 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 describing the results of the study under subparagraph (A).

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§ 5319. Bicycle facilities

A project to provide access for bicycles to public transportation facilities, to provide shelters and parking facilities for bicycles in or around public transportation facilities, or to install equipment for transporting bicycles on public transportation vehicles is a capital project eligible for assistance under sections 5307, 5309, and 5311 of this title. [Notwithstanding sections 5307(e), 5309(h), and 5311(g) of this title, a grant of the United States Government under this chapter for a project made eligible by this section is for 90 percent of the cost of the project, except that, if the grant or any portion of the grant is made with funds required to be expended under 5307(d)(1)(K) and the project involves providing bicycle access to public transportation, that grant or portion of that grant shall be at a Federal share of 95 percent.]

[§ 5320. Alternative transportation in parks and public lands

[(a) **PROGRAM NAME.**—The program authorized by this section shall be known as the Paul S. Sarbanes Transit in Parks Program.

[(b) **IN GENERAL.**—

[(1) **AUTHORIZATION.**—

[(A) **IN GENERAL.**—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other agreement to carry out a qualified project under this section to enhance the

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protection of national parks and public lands and increase the enjoyment of those visiting the parks and public lands by—

[(i) ensuring access to all, including persons with disabilities;

[(ii) improving conservation and park and public land opportunities in urban areas through partnering with State and local governments; and

[(iii) improving park and public land transportation infrastructure.

[(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

[(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intra-agency agreement, or other agreement for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

[(3) ALTERNATIVE TRANSPORTATION FACILITIES AND SERVICES.—Projects receiving assistance under this section shall provide alternative transportation facilities and services that complement and enhance existing transportation services in national parks and public lands in a manner that is consistent with Department of Interior and other public land management policies regarding private automobile access to and in such parks and lands.

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

[(1) ELIGIBLE AREA.—The term “eligible area” means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

[(A) a unit of the National Park System;

[(B) a unit of the National Wildlife Refuge System;

[(C) a recreational area managed by the Bureau of Land Management;

[(D) a recreation area managed by the Bureau of Reclamation; and

[(E) a unit of the National Forest System.

[(2) FEDERAL LAND MANAGEMENT AGENCY.—The term “Federal land management agency” means a Federal agency that manages an eligible area.

[(3) ALTERNATIVE TRANSPORTATION.—The term “alternative transportation” means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service. Such term also includes a non-

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motorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft).

[(4) QUALIFIED PARTICIPANT.—The term “qualified participant” means—

[(A) a Federal land management agency; or

[(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other governmental or nongovernmental participant.

[(5) QUALIFIED PROJECT.—The term “qualified project” means a planning or capital project in or in the vicinity of an eligible area that—

[(A) is an activity described in section 5302(a)(1), 5303, 5304, 5305, or 5309(b);

[(B) involves—

[(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of the Federal Public Transportation Act of 2005 with clean fuel vehicles; or

[(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

[(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

[(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

[(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

[(F) is any other alternative transportation project that—

[(i) enhances the environment;

[(ii) prevents or mitigates an adverse impact on a natural resource;

[(iii) improves Federal land management agency resource management;

[(iv) improves visitor mobility and accessibility and the visitor experience;

[(v) reduces congestion and pollution (including noise pollution and visual pollution); or

[(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

[(d) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

[(1) technical assistance in alternative transportation;

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[(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

[(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

[(e) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

[(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(b)(2)(J) to administer this section and to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

[(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this chapter or any other provision of law.

[(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 25 percent of the total amount made available to carry out this section under section 5338(b)(2)(J) for any fiscal year.

[(4) TRANSFERS TO LAND MANAGEMENT AGENCIES.—The Secretary may transfer amounts available under paragraph (1) to the appropriate Federal land management agency to pay necessary costs of the agency for such activities described in paragraph (1) in connection with activities being carried out under this section.

[(f) PLANNING PROCESS.—In undertaking a qualified project under this section—

[(1) if the qualified participant is a Federal land management agency—

[(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

[(i) the metropolitan planning provisions under section 5303;

[(ii) the statewide planning provisions under section 5304; and

[(iii) the public participation requirements under section 5307(d); and

[(B) in the case of a qualified project that is at a unit of the National Park System, the planning process shall be consistent with the general management plans of the unit of the National Park System; and

[(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

[(A) comply with the metropolitan planning provisions under section 5303;

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[(B) comply with the statewide planning provisions under section 5304;

[(C) comply with the public participation requirements under section 5307(d); and

[(D) consult with the appropriate Federal land management agency during the planning process.

[(g) COST SHARING.—

[(1) GOVERNMENT'S SHARE.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the Government's share of the net project cost to be provided to a qualified participant under this section.

[(2) CONSIDERATIONS.—In establishing the Government's share of the net project cost to be provided under this section, the Secretary shall consider—

[(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

[(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

[(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

[(D) the clear and direct benefit to the qualified participant; and

[(E) any other matters that the Secretary considers appropriate to carry out this section.

[(3) SPECIAL RULE.—Notwithstanding any other provision of law, funds appropriated to any Federal land management agency may be counted toward the remainder of the net project cost.

[(h) SELECTION OF QUALIFIED PROJECTS.—

[(1) IN GENERAL.—The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

[(2) CONSIDERATIONS.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

[(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

[(B) the location of the qualified project, to ensure that the selected qualified projects—

[(i) are geographically diverse nationwide; and

[(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

[(C) the size of the qualified project, to ensure that there is a balanced distribution;

[(D) the historical and cultural significance of a qualified project;

[(E) safety;

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- [(F) the extent to which the qualified project would—
 - [(i) enhance livable communities;
 - [(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);
 - [(iii) reduce congestion; and
 - [(iv) improve the mobility of people in the most efficient manner; and

[(G) any other matters that the Secretary of the Interior considers appropriate to carry out this section, including—

- [(i) visitation levels;
- [(ii) the use of innovative financing or joint development strategies; and
- [(iii) coordination with gateway communities.

[(i) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

[(1) IN GENERAL.—When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

- [(A) the qualified participant applies for the payment;
- [(B) the Secretary approves the payment; and
- [(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

[(2) FINANCING COSTS.—

[(A) IN GENERAL.—The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

[(B) LIMITATION ON AMOUNT OF INTEREST.—The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

[(C) CERTIFICATION.—The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

[(j) RELATIONSHIP TO OTHER LAWS.—

[(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

[(2) OTHER REQUIREMENTS.—A qualified participant under this section shall be subject to any other requirements that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

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[(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than \$25,000,000—

[(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement in accordance with section 5309(g); and

[(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

[(k) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

[(l) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

[(1) GRANTS AND OTHER ASSISTANCE.—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other agreements for research, development, and deployment of new technologies in eligible areas that will—

[(A) conserve resources;

[(B) prevent or mitigate adverse environmental impact;

[(C) improve visitor mobility, accessibility, and enjoyment; and

[(D) reduce pollution (including noise pollution and visual pollution).

[(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

[(3) FUNDING.—Grants, cooperative agreements, contracts, and other agreements under paragraph (1) shall be awarded from amounts allocated under subsection (e)(1).

[(m) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a State infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

[(n) REPORTS.—

[(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

[(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

[(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

[(C) the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

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[(2) ANNUAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(k)(1).]

* * * * *

[§ 5322. Human resource programs]

§ 5322. Training and technical assistance programs

(a) IN GENERAL.—The Secretary of Transportation may undertake, or make grants and contracts for, [programs that address human resource needs as they apply to public transportation activities] *programs that address training and outreach needs as they apply to public transportation activities, and programs that provide public transportation-related technical assistance to providers of public transportation services.* A program may include—

(1) * * *

* * * * *

(3) research on public transportation personnel and training needs; [and]

(4) training and assistance for minority business opportunities[.]; and

(5) *technical assistance provided through national nonprofit organizations with demonstrated capacity and expertise in a particular area of public transportation policy.*

* * * * *

(c) NATIONAL TRANSIT INSTITUTE.—

(1) GRANTS AND CONTRACTS.—*The Secretary may award grants or enter into contracts with a public university to establish a National Transit Institute to support training and educational programs for Federal, State, and local transportation employees engaged or to be engaged in Government-aid public transportation work.*

(2) EDUCATION AND TRAINING.—*The National Transit Institute shall provide education and training to employees of State and local governments at no cost when the education and training is related to a responsibility under a Government program.*

(d) TECHNICAL ASSISTANCE.—*The Secretary may provide public transportation-related technical assistance under this section as follows:*

(1) *To help public transportation providers comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) through a competitively selected contract or cooperative agreement with a national nonprofit organization serving individuals with disabilities that has a demonstrated capacity to carry out technical assistance, demonstration programs, research, public education, and other activities related to complying with such Act.*

(2) *To help public transportation providers comply with human services transportation coordination requirements and to enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation through a competitively selected contract or cooperative agreement with a national nonprofit organization that has*

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a demonstrated capacity to carry out technical assistance, training, and support services related to complying with such requirements.

(3) To help public transportation providers meet the transportation needs of elderly individuals through a competitively selected contract or cooperative agreement with a national non-profit organization serving elderly individuals that has a demonstrated capacity to carry out such activities.

(4) To provide additional technical assistance, mobility management services, volunteer support services, training, and research that the Secretary determines will assist public transportation providers meet the goals of this section.

(e) FUNDING.—Training and outreach programs and technical assistance activities performed under this section shall be paid for with administrative funds made available under section 5338(c).

§ 5323. General provisions on assistance

(a) * * *

* * * * *

(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

(1) * * *

* * * * *

[(4) PILOT PROGRAM FOR URBANIZED AREAS.—

[(A) IN GENERAL.—The Secretary shall establish a pilot program to reimburse not to exceed 10 eligible recipients for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307.

[(B) REPORT.—Not later than July 31, 2008, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status and effectiveness of the pilot program established under subparagraph (A).]

* * * * *

(i) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—

(1) * * *

* * * * *

(3) COSTS INCURRED BY PROVIDERS OF PUBLIC TRANSPORTATION BY VANPOOL.—

(A) LOCAL MATCHING SHARE.—The local matching share provided by a recipient of assistance for a capital project under this chapter may include any amounts expended by a provider of public transportation by vanpool for the acquisition of rolling stock to be used by such provider in the recipient's service area, excluding any amounts the provider may have received in Federal, State, or local government assistance for such acquisition.

(B) USE OF REVENUES.—A private provider of public transportation by vanpool may use revenues it receives in the provision of public transportation service in the service

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area of a recipient of assistance under this chapter that are in excess of the provider's operating costs for the purpose of acquiring rolling stock, if the private provider enters into a legally binding agreement with the recipient that requires the provider to use the rolling stock in the recipient's service area.

(C) DEFINITIONS.—In this paragraph, the following definitions apply:

(i) PRIVATE PROVIDER OF PUBLIC TRANSPORTATION BY VANPOOL.—The term "private provider of public transportation by vanpool" means a private entity providing vanpool services in the service area of a recipient of assistance under this chapter using a commuter highway vehicle or vanpool vehicle.

(ii) COMMUTER HIGHWAY VEHICLE; VANPOOL VEHICLE.—The term "commuter highway vehicle" or "vanpool vehicle" means any vehicle—

(I) the seating capacity of which is at least 6 adults (not including the driver); and

(II) at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.

(4) INCENTIVES FOR COMPETITIVELY CONTRACTED SERVICE.—

(A) ELIGIBILITY.—Subject to subparagraph (C), a recipient of assistance under this chapter that meets the targets under subparagraph (B) for competitively contracted service shall be eligible, at the request of the recipient, for a Federal share of 90 percent for the capital cost of buses and bus-related facilities and equipment purchased with financial assistance made available under this chapter.

(B) TARGET.—To qualify for the competitively contracted service incentive program under this paragraph, a public transit agency or governmental unit shall competitively contract for at least 20 percent of its fixed route bus service. The percentage of competitively contracted service shall be calculated by determining the ratio of competitively contracted service vehicles operated in annual maximum service to total vehicles operated in annual maximum service.

(C) MAINTENANCE OF EFFORT.—A public transit agency or governmental unit shall be eligible for an increased Federal share under this paragraph only if the amount of State and local funding provided to the affected public transit agency or governmental unit for the capital cost of buses and bus-related facilities and equipment will not be less than the average amount of funding for such purposes provided during the 3 fiscal years preceding the date of enactment of this paragraph.

(D) DEFINITIONS.—In this paragraph, the following definitions apply:

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(i) **COMPETITIVELY CONTRACTED SERVICE.**—The term “competitively contracted service” means fixed route bus transportation service purchased by a public transit agency or governmental unit from a private transportation provider based on a written contract.

(ii) **VEHICLES OPERATED IN ANNUAL MAXIMUM SERVICE.**—The term “vehicles operated in annual maximum service” means the number of transit vehicles operated to meet the annual maximum service requirement during the peak season of the year, on the week and day that maximum service is provided.

(j) **BUY AMERICA.**—(1) * * *

* * * * *

(10) **APPLICATION OF BUY AMERICA TO TRANSIT PROGRAMS.**—The requirements of this subsection apply to all contracts for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least one contract for the project is funded with amounts made available to carry out this chapter.

(11) **ADDITIONAL WAIVER REQUIREMENTS.**—

(A) **IN GENERAL.**—If the Secretary receives a request for a waiver under this section, the Secretary shall provide notice of and an opportunity for public comment on the request at least 30 days before making a finding based on the request.

(B) **NOTICE REQUIREMENTS.**—A notice provided under subparagraph (A) shall include the information available to the Secretary concerning the request and shall be provided by electronic means, including on the official public Internet Web site of the Department of Transportation.

(C) **DETAILED JUSTIFICATION.**—If the Secretary issues a waiver under this subsection, the Secretary shall publish in the Federal Register a detailed justification for the waiver that addresses the public comments received under subparagraph (A) and shall ensure that such justification is published before the waiver takes effect.

* * * * *

(q) **REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.**—A recipient of assistance under this chapter may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes.

* * * * *

§ 5325. Contract requirements

(a) * * *

* * * * *

(h) **GRANT PROHIBITION.**—A grant awarded under this chapter or the [Federal Public Transportation Act of 2005] Public Trans-

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portation Act of 2012 may not be used to support a procurement that uses an exclusionary or discriminatory specification.

* * * * *

(k) **VETERANS EMPLOYMENT.**—Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a preference in the hiring or referral of laborers to veterans, as defined in section 2108 of title 5, who have the requisite skills and abilities to perform the construction work required under the contract.

§ 5326. Private sector participation

(a) **GENERAL PURPOSES.**—In the interest of fulfilling the general purposes of this chapter under section 5301(f), the Secretary shall—

(1) better coordinate public and private sector-provided public transportation services; and

(2) promote more effective utilization of private sector expertise, financing, and operational capacity to deliver costly and complex new fixed guideway capital projects.

(b) **ACTIONS TO PROMOTE BETTER COORDINATION BETWEEN PUBLIC AND PRIVATE SECTOR PROVIDERS OF PUBLIC TRANSPORTATION.**—The Secretary shall—

(1) provide technical assistance to recipients of Federal transit grant assistance on practices and methods to best utilize private providers of public transportation; and

(2) educate recipients of Federal transit grant assistance on laws and regulations under this chapter that impact private providers of public transportation.

(c) **ACTIONS TO PROVIDE TECHNICAL ASSISTANCE FOR ALTERNATIVE PROJECT DELIVERY METHODS.**—Upon request by a sponsor of a new fixed guideway capital project, the Secretary shall—

(1) identify best practices for public-private partnerships models in the United States and in other countries;

(2) develop standard public-private partnership transaction model contracts; and

(3) perform financial assessments that include the calculation of public and private benefits of a proposed public-private partnership transaction.

§ 5327. Project management oversight

(a) * * *

* * * * *

(c) **LIMITATIONS.**—

(1) **LIMITATIONS ON USE OF AVAILABLE AMOUNTS.**—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts [to make contracts] for the activities described in paragraph (2):

(A) * * *

* * * * *

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(D) 0.5 percent of amounts made available to carry out section [5310] 5317.

* * * * *

[(F) 0.5 percent of amounts made available to carry out section 5320.]

(F) 1 percent of amounts made available to carry out section 5337.

(G) 0.75 percent of amounts made available to carry out section 5317.

(2) ACTIVITIES.—Paragraph (1) shall apply to the following:

(A) * * *

(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under sections 5305, 5307, 5309, [5310] 5317, [5311, and 5320] and 5311.

* * * * *

§ 5328. Project review

(a) * * *

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[(c) PROGRAM OF INTERRELATED PROJECTS.—(1) In this subsection, a program of interrelated projects includes the following:

[(A) the New Jersey Urban Core Project (as defined in title III of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 2087)).

[(B) the San Francisco Bay Area Rail Extension Program, consisting of at least an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit District Tasman Corridor Project, a program element designated by a change to the Metropolitan Transportation Commission Resolution No. 1876, and a program element financed completely with non-Government amounts, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

[(C) the Los Angeles Metro Rail Minimum Operable Segment-3 Program, consisting of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

[(i) one line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

[(ii) one line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

[(iii) the East Side Extension, consisting of an initial line of approximately 3 miles, with at least 2 stations, beginning at Union Station and running generally east.

[(D) the Baltimore-Washington Transportation Improvement Program, consisting of 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station, and Baltimore-Washington Airport, MARC extensions to Frederick and Waldorf,

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Maryland, and an extension of the Washington Subway system to Largo, Maryland.

[(E) the Tri-County Metropolitan Transportation District of Oregon Light Rail Program, consisting of the locally preferred alternative for the Westside Light Rail Project, including system related costs, contained in the Department of Transportation and Related Agencies Appropriations Act, 1991 (Public Law 101-516, 104 Stat. 2155), and defined in House Report 101-584, the Hillsboro extension to the Westside Light Rail Project contained in that Act, and the locally preferred alternative for the South/North Corridor Project.

[(F) the Queens Local/Express Connector Program, consisting of the locally preferred alternative for the connection of the 63d Street tunnel extension to the Queens Boulevard lines, the bell-mouth part of the connector that will allow for future access by commuter rail trains and other subway lines to the 63d Street tunnel extension, planning elements for connecting the upper and lower levels to commuter and subway lines in Long Island City, and planning elements for providing a connector for commuter rail transportation to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

[(G) the Dallas Area Rapid Transit Authority light rail elements of the New System Plan, consisting of the locally preferred alternative for the South Oak Cliff corridor, the South Oak Cliff corridor extension-Camp Wisdom, the West Oak Cliff corridor-Westmoreland, the North Central corridor-Park Lane, the North Central corridor-Richardson, Plano, and Garland extensions, the Pleasant Grove corridor-Buckner, and the Carrollton corridors-Farmers Branch and Las Colinas terminal.

[(H) other programs designated by law or the Secretary.

[(2) Consistent with the time requirements of subsection (a) of this section or as otherwise provided by law, the Secretary shall make at least one full financing grant agreement for each program described in paragraph (1) of this subsection. The agreement shall include commitments to advance each of the applicant's program elements (in the program of interrelated projects) through the appropriate program review stages as provided in subsection (a) or as otherwise provided by law and to provide Government financing for each element. The agreement may be changed to include design and construction of a particular element.

[(3) When reviewing a project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent consideration expedites carrying out the project.

[(4) Including a program element not financed by the Government in a program of interrelated projects does not impose Government requirements that otherwise would not apply to the element.]

* * * * *

§ 5330. State safety oversight

(a) * * *

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[(b) GENERAL AUTHORITY.—The Secretary of Transportation may withhold not more than 5 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 of this title for a fiscal year beginning after September 30, 1994, if the State in the prior fiscal year has not met the requirements of subsection (c) of this section and the Secretary decides the State is not making an adequate effort to comply with subsection (c).]

(b) GENERAL AUTHORITY.—The Secretary may require that up to 100 percent of the amount required to be appropriated for use in a State or urbanized area in the State under section 5307 for a fiscal year beginning after September 30, 2013, be utilized on capital safety improvement and state of good repair projects for the benefit of fixed guideway transportation systems in such State or urbanized area in the State before any other transit capital project is undertaken, if—

(1) the State in the prior fiscal year has not met the requirements of subsection (c); or

(2) the Secretary has certified that the State safety oversight agency (as defined in section 5336(k)(1)(B)) does not have adequate technical capacity, personnel resources, and authority under relevant State law to perform the agency's responsibilities described in that section.

* * * * *

§ 5333. Labor standards

(a) * * *

(b) EMPLOYEE PROTECTIVE ARRANGEMENTS.—(1) As a condition of financial assistance under sections 5307-5312, [5316,] 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and [5338(b)] 5338(a) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307-5312, [5316,] 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and [5338(b)] 5338(a) shall specify the arrangements.

* * * * *

§ 5336. Apportionment of appropriations for formula grants

(a) * * *

* * * * *

(d) DATE OF APPORTIONMENT.—The Secretary of Transportation shall—

(1) apportion amounts appropriated under [subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338] section 5338(a)(2)(B) of this title to carry out section 5307 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

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[(i) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338—

[(1) one percent shall be apportioned, in fiscal year 2006 and each fiscal year thereafter, to certain urbanized areas with populations of less than 200,000 in accordance with subsection (j); and

[(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).]

(i) APPORTIONMENTS.—Of the amounts made available for each fiscal year under section 5338(a)(2)(B)—

(1) 2 percent shall be apportioned to certain urbanized areas with populations of less than 200,000 in accordance with subsection (j);

(2) 1 percent shall be apportioned to applicable States for operational support and training costs of State safety oversight agencies and personnel employed by or under contract to such agencies in accordance with subsection (k); and

(3) any amount not apportioned under paragraphs (1) and (2) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).

* * * * *

[(k) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

[(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

[(2) REPORT.—

[(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

[(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

[(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

[(ii) the optimal number and size of any incentive programs;

[(iii) what types of systems should compete for various incentives;

[(iv) how incentives should be distributed; and

[(v) the likely effects of the incentive funding system.]

(k) STATE SAFETY OVERSIGHT AGENCIES FORMULA.—

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

(A) APPLICABLE STATES.—The term “applicable States” means States that—

(i) have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; or

(ii) are designing or constructing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.

(B) STATE SAFETY OVERSIGHT AGENCIES.—The term “State safety oversight agency” means a designated State authority that has responsibility—

(i) for requiring, reviewing, approving, and monitoring safety program plans under section 5330(c)(1);

(ii) for investigating hazardous conditions and accidents on fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

(iii) for requiring action to correct or eliminate those conditions.

(2) APPORTIONMENT.—

(A) APPORTIONMENT FORMULA.—The amount to be apportioned under subsection (i)(2) shall be apportioned among applicable States under a formula to be established by the Secretary. Such formula shall take into account factors of fixed guideway revenue vehicle miles, fixed guideway route miles, and fixed guideway vehicle passenger miles attributable to all rail fixed guideway systems not subject to regulation by the Federal Railroad Administration within each applicable State.

(B) RECIPIENTS OF APPORTIONED AMOUNTS.—Amounts apportioned under the formula established pursuant to subparagraph (A) shall be made available as grants to State safety oversight agencies. Such grants are subject to uniform administrative requirements for grants and cooperative agreements to State and local governments under part 18 of title 49, Code of Federal Regulations, and are subject to the requirements of this chapter as the Secretary determines appropriate.

(C) USE OF FUNDS.—A State safety oversight agency may use funds apportioned under subparagraph (A) for program operational and administrative expenses, including employee training activities, that assist the agency in carrying out its responsibilities described in paragraph (1)(B).

(D) CERTIFICATION PROCESS.—

(i) DETERMINATIONS.—The Secretary shall determine whether or not each State safety oversight agency has adequate technical capacity, personnel resources, and authority under relevant State law to perform the agency’s defined responsibilities described in paragraph (1)(B).

(ii) ISSUANCE OF CERTIFICATIONS AND DENIALS.—The Secretary shall—

(I) issue a certification to each State safety oversight agency that the Secretary determines

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under clause (i) has adequate technical capacity, personnel resources, and authority; and

(II) issue a denial of certification to each State safety oversight agency that the Secretary determines under clause (i) does not have adequate technical capacity, personnel resources, and authority, and provide the agency with a written explanation of the reasons for the denial.

(E) ANNUAL REPORT.—On or before July 1 of each year, the Secretary shall submit 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—

(i) the amount of funds apportioned to each applicable State; and

(ii) the certification status of each State safety oversight agency, including what steps an agency that has been denied certification must take in order to be so certified.

[§ 5337. Apportionment based on fixed guideway factors]

§ 5337. Fixed guideway modernization program

(a) PROGRAM GOALS.—The goals of the fixed guideway modernization program are—

(1) to rehabilitate, maintain, and preserve the Nation's fixed guideway public transportation systems;

(2) to reduce the maintenance backlog and increase the state of good repair of the Nation's fixed guideway public transportation systems; and

(3) to increase the overall ridership on fixed guideway public transportation systems.

(b) GENERAL AUTHORITY.—The Secretary may make grants to eligible recipients under this section to assist State and local government authorities in financing capital projects to modernize eligible fixed guideway systems.

[(a)] (c) DISTRIBUTION.—The Secretary shall apportion amounts made available for fixed guideway modernization **[under section 5309 for each of fiscal years 2005 through 2012 as follows:]** for a fiscal year as follows:

(1) * * *

* * * * *

[(b)] (d) TOTAL AMOUNTS NOT AVAILABLE.—In a fiscal year in which the total amounts authorized under subsection (a)(1) and (2) of this section are not available, the Secretary shall reduce on a proportionate basis the apportionments of all urbanized areas eligible under subsection (a)(1) or (2) to adjust for the amount not available.

[(c)] (e) NEW JERSEY TRANSIT CORPORATION.—Rail modernization amounts allocated to the New Jersey Transit Corporation under this section may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail transportation, regardless of which urbanized area generates the financing.

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[(d) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section—

[(1) remains available for 3 years after the fiscal year in which the amount is apportioned; and

[(2) that is unobligated at the end of the 3-year period shall be reapportioned for the next fiscal year among urbanized areas eligible under subsection (a)(1)-(3) of this section using the apportionment formula of this section.]

(f) AVAILABILITY OF AMOUNTS.—An amount appropriated under this section shall remain available for a period of 3 fiscal years after the fiscal year in which the amount is appropriated. Any of such amount that is unobligated at the end of such period shall be reapportioned for the next fiscal year among eligible recipients in accordance with subsection (c).

[(e)] (g) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—

(1) * * *

* * * * *

[(f)] (h) ADJUSTMENT.—For purposes of this section, an urbanized area with a population of 55,997, according to the most recent decennial census, shall be treated as an urbanized area eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997. For the purposes of subsection (e)(1), the number of fixed guideway revenue vehicle miles of service and number of fixed guideway route miles for that urbanized area as of the date of enactment of the Federal Public Transportation Act of 2005 shall be considered to have been used to determine apportionments for fiscal year 1997.

(i) UNDERTAKING PROJECTS IN ADVANCE.—

(1) IN GENERAL.—When a recipient obligates all amounts apportioned to it under this section and then carries out a part of a project described in this section without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under this section if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out that part, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) REQUIREMENT FOR APPROVAL OF APPLICATIONS.—The Secretary may approve an application under paragraph (1) only if an authorization for this section is in effect for the fiscal year to which the application applies.

(3) INTEREST PAYMENTS.—The cost of carrying out that part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out this part. However, the amount of interest allowed under this paragraph may not be more than the most favorable financing terms reasonably avail-

able for the project at the time of borrowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.

(j) GRANT REQUIREMENTS.—A grant under this section shall be subject to the requirements of subsections (c), (d), (e), (h), (i), and (m) of section 5307.

[§ 5338. Authorizations

[(a) FISCAL YEAR 2005.—

[(1) FORMULA GRANTS.—

[(A) TRUST FUND.—For fiscal year 2005, \$3,499,927,776 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, and 5311 and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$499,989,824 for fiscal year 2005 to carry out sections 5307, 5308, 5310, and 5311 and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

[(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

[(i) \$4,811,150 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

[(ii) \$5,208,000 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of intercity, fixed-route over-the-road buses;

[(iii) \$1,686,400 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of over-the-road buses providing other than intercity, fixed-route service;

[(iv) \$94,526,689 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

[(v) \$250,889,588 shall be available to provide financial assistance for other than urbanized areas under section 5311;

[(vi) \$3,593,195,773 shall be available to provide financial assistance for urbanized areas under section 5307; and

[(vii) \$49,600,000 shall be available to carry out the clean fuels program under section 5308.

[(2) JOB ACCESS AND REVERSE COMMUTE.—

[(A) TRUST FUND.—For fiscal year 2005, \$108,500,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the

Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$15,500,000 for fiscal year 2005 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

[(3) CAPITAL PROGRAM GRANTS.—

[(A) TRUST FUND.—For fiscal year 2005, \$2,898,100,224 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$414,014,176 for fiscal year 2005 to carry out sections 5308, 5309, and 5318 and section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

[(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

[(i) \$49,600,000 shall be available to carry out the clean fuels program under section 5308;

[(ii) \$669,600,000 shall be available for capital projects to replace, rehabilitate, and purchase bus and related equipment and to construct bus-related facilities under section 5309;

[(iii) \$1,204,684,800 shall be available for fixed guideway modernization under section 5309;

[(iv) \$1,437,829,600 shall be available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems under section 5309;

[(v) \$10,213,632 shall be available for capital projects in Alaska and Hawaii under section 5309;

[(vi) \$2,976,000 shall be available to carry out bus testing under section 5318; and

[(vii) \$4,811,200 shall be available to carry out the fuel cell bus and bus facilities program under section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

[(4) PLANNING.—

[(A) TRUST FUND.—For fiscal year 2005, \$63,364,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$9,052,000 for fiscal year 2005 to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

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[(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

[(i) 82.72 percent shall be allocated for metropolitan planning under section 5305; and

[(ii) 17.28 percent shall be allocated for State planning under section 5305.

[(5) RESEARCH.—

[(A) TRUST FUND.—For fiscal year 2005, \$47,740,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

[(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated \$6,820,000 for fiscal year 2005 to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

[(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

[(i) not less than \$3,968,000 shall be available to carry out programs under the National Transit Institute under section 5315, of which not more than \$992,000 shall be available to carry out section 5315(a)(16);

[(ii) not less than \$5,208,000 shall be available to provide rural transportation assistance under section 5311(b)(2);

[(iii) not less than \$8,184,000 shall be available to carry out transit cooperative research programs under section 5313(a);

[(iv) not less than \$2,976,000 shall be available to carry out Project Action under section 5312; and

[(v) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

[(6) UNIVERSITY TRANSPORTATION RESEARCH.—

[(A) TRUST FUND.—For fiscal year 2005, \$5,208,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5505.

[(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated \$744,000 for fiscal year 2005 to carry out section 5505.

[(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

[(i) \$1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(A), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005; and

[(ii) \$1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(F), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

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[(D) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

[(7) ADMINISTRATION.—

[(A) TRUST FUND.—For fiscal year 2005, \$67,704,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

[(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated \$9,672,000 for fiscal year 2005 to carry out section 5334.

[(8) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.

[(b) FORMULA AND BUS GRANTS.—

[(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.) —

[(A) \$6,979,931,000 for fiscal year 2006;

[(B) \$7,262,775,000 for fiscal year 2007;

[(C) \$7,872,893,000 for fiscal year 2008;

[(D) \$8,360,565,000 for fiscal year 2009;

[(E) \$8,360,565,000 for fiscal year 2010;

[(F) \$8,360,565,000 for fiscal year 2011; and

[(G) \$8,360,565,000 for fiscal year 2012.

[(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—

[(A) \$95,000,000 for fiscal year 2006, \$99,000,000 for fiscal year 2007, \$107,000,000 for fiscal year 2008, and \$113,500,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5305;

[(B) \$3,466,681,000 for fiscal year 2006, \$3,606,175,000 for fiscal year 2007, \$3,910,843,000 for fiscal year 2008, and \$4,160,365,000 for each of fiscal years 2009 through 2012 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;

[(C) \$43,000,000 for fiscal year 2006, \$45,000,000 for fiscal year 2007, \$49,000,000 for fiscal year 2008, and \$51,500,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5308;

[(D) \$1,391,000,000 for fiscal year 2006, \$1,448,000,000 for fiscal year 2007, \$1,570,000,000 for fiscal year 2008, and \$1,666,500,000 for each of fiscal years 2009 through 2012 shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(m)(2)(B);

[(E) \$822,250,000 for fiscal year 2006, \$855,500,000 for fiscal year 2007, \$927,750,000 for fiscal year 2008, and \$984,000,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5309(m)(2)(C);

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[(F) \$112,000,000 for fiscal year 2006, \$117,000,000 for fiscal year 2007, \$127,000,000 for fiscal year 2008, and \$133,500,000 for each of fiscal years 2009 through 2012 shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

[(G) \$388,000,000 for fiscal year 2006, \$404,000,000 for fiscal year 2007, \$438,000,000 for fiscal year 2008, and \$465,000,000 for each of fiscal years 2009 through 2012 shall be available to provide financial assistance for other than urbanized areas under section 5311;

[(H) \$138,000,000 for fiscal year 2006, \$144,000,000 for fiscal year 2007, \$156,000,000 for fiscal year 2008, and \$164,500,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5316;

[(I) \$78,000,000 for fiscal year 2006, \$81,000,000 for fiscal year 2007, \$87,500,000 for fiscal year 2008, and \$92,500,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5317;

[(J) \$22,000,000 for fiscal year 2006, \$23,000,000 for fiscal year 2007, \$25,000,000 for fiscal year 2008, and \$26,900,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 5320;

[(K) \$3,500,000 for each of fiscal years 2006 through 2012 shall be available to carry out section 5335;

[(L) \$25,000,000 for each of fiscal years 2006 through 2012 shall be available to carry out section 5339;

[(M) \$388,000,000 for fiscal year 2006, \$404,000,000 for fiscal year 2007, \$438,000,000 for fiscal year 2008, and \$465,000,000 for each of fiscal years 2009 through 2012 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

[(N) \$7,500,000 for fiscal year 2006, \$7,600,000 for fiscal year 2007, \$8,300,000 for fiscal year 2008, and \$8,800,000 for each of fiscal years 2009 through 2012 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

[(c) CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(m)(2)(A)—

- [(1) \$1,503,000,000 for fiscal year 2006;
- [(2) \$1,566,000,000 for fiscal year 2007;
- [(3) \$1,700,000,000 for fiscal year 2008;
- [(4) \$1,809,250,000 for fiscal year 2009;
- [(5) \$2,000,000,000 for fiscal year 2010;
- [(6) \$2,000,000,000 for fiscal year 2011; and
- [(7) \$1,600,000,000 for fiscal year 2012.

[(d) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—

[(1) IN GENERAL.—There is authorized to be appropriated to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5506, and national

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research programs under sections 5312, 5313, 5314, and 5322 \$58,000,000 for fiscal year 2006, \$61,000,000 for fiscal year 2007, \$65,500,000 for fiscal year 2008, \$69,750,000 for each of fiscal years 2009 through 2011 and \$44,000,000 for fiscal year 2012 of which—

[(A) \$9,000,000 for fiscal year 2006, \$9,300,000 for fiscal year 2007, \$9,600,000 for fiscal year 2008, and \$10,000,000 for each of fiscal years 2009, 2010, and 2011 shall be allocated to carry out transit cooperative research programs under section 5313;

[(B) \$4,300,000 shall be allocated for each fiscal year to carry out programs under the National Transit Institute under section 5315, of which not more than \$1,000,000 for each fiscal year shall be used to carry out section 5315(b)(2)(P);

[(C) \$7,000,000 shall be allocated for each fiscal year to carry out the university centers program under section 5506;

[(D) \$3,000,000 shall be allocated for each fiscal year to carry out Project Action under section 5314(a)(2);

[(E) \$1,000,000 shall be allocated for each fiscal year to carry out the National Technical Assistance Center under section 5314(c); and

[(F) any funds made available under this paragraph that are not allocated under subparagraphs (A) through (E) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322.

[(2) UNIVERSITY CENTERS PROGRAM.—

[(A) ALLOCATION.—Of the amounts allocated under paragraph (1)(C), the following amounts shall be available to provide transportation research, training, and curriculum development:

[(i) \$2,000,000 for each of fiscal years 2006 through 2012 for the University of Tennessee--Knoxville National Transportation Research Center.

[(ii) \$1,500,000 for each of fiscal years 2006 through 2012 for Texas A&M University--Texas Transportation Institute.

[(iii) \$1,000,000 for each of fiscal years 2006 through 2012 for Morgan State University.

[(iv) \$400,000 for each of fiscal years 2006 and 2007 for the Small Urban and Rural Transit Center at North Dakota State University.

[(v) \$550,000 for each of fiscal years 2006 and 2007 and \$650,000 for each of fiscal years 2008 through 2012 for the University Transportation Center at the University of Alabama.

[(vi) \$450,000 for each of fiscal years 2006 and 2007 and \$550,000 for each of fiscal years 2008 through 2012 for the Injury Control Research Center at the University of Alabama Birmingham.

[(vii) \$550,000 for each of fiscal years 2006 and 2007 and \$650,000 for each of fiscal years 2008 through 2012 for the Jackson State University Inter-

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modal Transportation Institute at the Jackson State University.

[(viii) \$550,000 for each of fiscal years 2006 and 2007 and \$650,000 for each of fiscal years 2008 through 2012 for the University Transportation Center at the University of Denver/Mississippi State University.

[(B) REQUIREMENTS.—The universities specified in subparagraph (A) shall be considered to be university transportation centers under section 5506 and shall be subject to the requirements of subsections (b), (h), (i), (k), (l), and (m) of such section.

[(3) ADDITIONAL AUTHORIZATIONS.—

[(A) RESEARCH.—Of amounts authorized to be appropriated under paragraph (1) for fiscal year 2012, the Secretary shall allocate for each of the activities and projects described in subparagraphs (A) through (F) of paragraph (1) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such subparagraph.

[(B) UNIVERSITY CENTERS PROGRAM.—

[(i) FISCAL YEAR 2012.—Of the amounts allocated under subparagraph (A)(i) for the university centers program under section 5506 for fiscal year 2012, the Secretary shall allocate for each program described in clauses (i) through (iii) and (v) through (viii) of paragraph (2)(A) an amount equal to 63 percent of the amount allocated for fiscal year 2009 under each such clause.

[(ii) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) 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 clause (i) for the project or activity for fiscal year 2012 or any subsequent fiscal year.

[(e) ADMINISTRATION.—There is authorized to be appropriated to carry out section 5334—

- [(1) \$82,000,000 for fiscal year 2006;
- [(2) \$85,000,000 for fiscal year 2007;
- [(3) \$92,500,000 for fiscal year 2008;
- [(4) \$98,500,000 for fiscal year 2009;
- [(5) \$98,911,000 for fiscal year 2010;
- [(6) \$98,911,000 for fiscal year 2011; and
- [(7) \$98,713,000 for fiscal year 2012.

[(f) GRANTS AS CONTRACTUAL OBLIGATIONS.—

[(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project.

[(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with

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amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

[(g) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b), (c), and (d) shall remain available until expended.

[§ 5339. Alternatives analysis program

[(a) GRANTS AND AGREEMENTS.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities to develop alternatives analyses as defined by section 5309(a)(1).

[(b) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity.

[(c) AVAILABILITY OF FUNDS.—An amount made available or appropriated under section 5338(b)(2)(L) for this section shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.

[§ 5340. Apportionments based on growing States and high density States formula factors

[(a) DEFINITION.—In this section, the term "State" shall mean each of the 50 States of the United States.

[(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(M), the Secretary shall apportion—

[(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

[(2) 50 percent to States and urbanized areas in accordance with subsection (d).

[(c) GROWING STATE APPORTIONMENTS.—

[(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

[(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

[(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio

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equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

[(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

[(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

[(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

[(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

[(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

[(A) the total land area of the State (in square miles); multiplied by

[(B) 370; multiplied by (C)(i) the population of the State in urbanized areas; divided by

[(ii) the total population of the State.

[(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

[(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

[(5) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each ur-

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banized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.]

§ 5338. Authorizations

(a) FORMULA AND BUS GRANTS.—

(1) IN GENERAL.—There shall be available from the Alternative Transportation Account of the Highway Trust Fund to carry out sections 5305, 5307, 5310, 5311, 5317, 5330, 5335, and 5337 \$8,400,000,000 for each of fiscal years 2013 through 2016.

(2) ALLOCATION OF FUNDS.—Amounts made available under paragraph (1) shall be allocated as follows:

(A) \$126,000,000 for each of fiscal years 2013 through 2016 shall be available to carry out section 5305.

(B) \$4,578,000,000 for each of fiscal years 2013 through 2016 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas and State safety oversight agencies under sections 5307 and 5336(k).

(C) \$840,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for States and local governmental authorities to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities under section 5310. Of such amount, \$3,000,000 shall be available for each fiscal year for bus testing under section 5318.

(D) \$672,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for rural areas under section 5311.

(E) \$504,000,000 for each of fiscal years 2013 through 2016 shall be available to provide financial assistance for recipients and subrecipients to provide coordinated access and mobility public transportation projects and services under section 5317.

(F) \$3,500,000 for each of fiscal years 2013 through 2016 shall be available to carry out section 5335. Such amount shall be made available from funds allocated in accordance with section 5336 before the apportionments under subsection 5336(i) are carried out.

(G) \$1,680,000,000 for each of fiscal years 2013 through 2016 shall be made available and allocated in accordance with section 5337 to provide financial assistance for State and local government authorities to finance capital projects to modernize eligible fixed guideway systems.

(b) CAPITAL INVESTMENT GRANTS.—There is authorized to be appropriated to carry out section 5309(m)(2) \$1,955,000,000 for each of fiscal years 2013 through 2016.

(c) RESEARCH, TRAINING AND OUTREACH, AND TECHNICAL ASSISTANCE.—There is authorized to be appropriated to carry out the transit research program under section 5312 and the training and outreach, National Transit Institute, and technical assistance activities authorized by section 5322, \$45,000,000 for each of fiscal years

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2013 through 2016. Such amounts shall remain available until expended.

(d) ADMINISTRATION.—There is authorized to be appropriated to carry out sections 5326 and 5334 \$98,000,000 for each of fiscal years 2013 through 2016.

(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Alternative Transportation Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project.

(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

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CHAPTER 55—INTERMODAL TRANSPORTATION

SUBCHAPTER I—GENERAL

Sec.						
5501.	National Intermodal Transportation System policy.					
		*	*	*	*	*
[5505.	National university transportation centers.]					
		*	*	*	*	*

SUBCHAPTER I—GENERAL

* * * * *

[§ 5505. National university transportation centers

[(a) IN GENERAL.—

[(1) ESTABLISHMENT AND OPERATION.—The Secretary of Transportation shall make grants under this section to eligible nonprofit institutions of higher learning to establish and operate national university transportation centers.

[(2) ROLE OF CENTERS.—The role of each center shall be to advance significant transportation research on critical national transportation issues and to expand the workforce of transportation professionals.

[(b) APPLICABILITY OF REQUIREMENTS.—A grant received by an eligible nonprofit institution of higher learning under this section shall be available for the same purposes, and shall be subject to the same terms and conditions, as a grant made to a nonprofit institution of higher learning under section 5506.

[(c) ELIGIBLE NONPROFIT INSTITUTION OF HIGHER LEARNING DEFINED.—In this section, the term “eligible nonprofit institution of higher learning” means each of the following:

[(1) University of Alaska.

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[(2) Marshall University, West Virginia, on behalf of a consortium of West Virginia colleges and universities.

[(3) University of Minnesota.

[(4) University of Missouri, Rolla.

[(5) Northwestern University.

[(6) Oklahoma Transportation Center.

[(7) Portland State University, in partnership with the University of Oregon, Oregon State University, and the Oregon Institute of Technology.

[(8) University of Vermont.

[(9) Western Transportation Institute at Montana State University.

[(10) University of Wisconsin.

[(d) GRANTS.—The Secretary shall make a grant under this section to each eligible nonprofit institution of higher learning in an amount \$2,000,000 in fiscal year 2005 and \$3,500,000 in each of fiscal years 2006 through 2009 to carry out this section.]

§ 5506. University transportation research

(a) * * *

(b) OBJECTIVES.—Grants received under this section shall be used by nonprofit institutions of higher learning to advance significantly the state-of-the-art in transportation research and expand the workforce of transportation professionals through the following programs and activities:

(1) RESEARCH.—Basic and applied research *that is consistent with section 503 of title 23*, the products of which are judged by peers or other experts in the field of transportation to advance the body of knowledge in transportation.

* * * * *

(c) [(REGIONAL, TIER I, AND TIER II CENTERS)] *REGIONAL AND STANDARD CENTERS.*—

(1) [(REGIONAL AND TIER I CENTERS)] *REGIONAL AND STANDARD CENTERS.*—For each of fiscal years [2005 through 2009] *2013 through 2016*, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate—

(A) * * *

(B) [10 Tier I] *20 standard* university transportation centers.

[(2) TIER II CENTERS.—

[(A) For each of fiscal years 2006 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate 22 Tier II university transportation centers.

[(B) The Tier II centers consist of the following:

[(i) University of Arkansas, Mack-Blackwell Rural Transportation Center.

[(ii) University of California, Davis.

[(iii) California State University, San Bernardino.

[(iv) Cleveland State University, Work Zone Safety Institute.

[(v) University of Connecticut.

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- [(vi) University of Delaware in Newark.
- [(vii) University of Detroit Mercy (including the coalition partners of the university).
- [(viii) George Mason University.
- [(ix) Hampton University, Eastern Seaboard Intermodal Transportation Applications Center (ESITAC).
- [(x) Kansas State University.
- [(xi) Louisiana State University, LTRC-TTEC.
- [(xii) University of Massachusetts Amherst.
- [(xiii) Michigan Technological University.
- [(xiv) University of Nevada Las Vegas.
- [(xv) North Carolina State University, Center for Transportation and the Environment.
- [(xvi) Northwestern University.
- [(xvii) Ohio Higher Education Transportation Consortium University of Akron.
- [(xviii) University of Rhode Island.
- [(xix) University of Toledo.
- [(xx) Utah State University.
- [(xxi) Youngstown State University.
- [(xxii) University of Memphis.]

[(3)] (2) LOCATION OF REGIONAL CENTERS.—One regional university transportation center shall be located in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

[(4)] (3) LIMITATION.—A nonprofit institution of higher learning may not directly receive a grant under this section for a fiscal year for more than one university transportation center.

(d) COMPETITIVE SELECTION PROCESS.—

(1) * * *

* * * * *

(3) OPPORTUNITY ANNOUNCEMENT.—

(A) PUBLIC DISCLOSURE.—All funding opportunities under this section shall be publically announced and shall be posted on the Department of Transportation's Web site and on Grants.gov. Any announcement shall, at a minimum, include a detailed description of how applications will be evaluated and a list of any specific research areas, educational objectives, or technology transfer objectives expected to be addressed by an application.

(B) INPUT.—In developing an opportunity announcement under this paragraph, the Secretary shall solicit the input of transportation stakeholders, including academic researchers, State highway and transportation departments, local and regional governments, private industry, the Administrator of the Research and Innovative Technology Administration, and Administrators of other relevant Department of Transportation agencies.

(4) PROPOSAL REVIEW AND SELECTION.—

(A) IN GENERAL.—The Secretary shall make award decisions under subsection (c)(1) through a peer-reviewed, merit-based process. The Secretary may make grants to,

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and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities under this paragraph as the Secretary determines are appropriate.

(B) PEER-REVIEW.—

(i) IN GENERAL.—The Secretary, acting through the National Research Council of the National Academy of Sciences, shall establish a peer-review process in which all proposals shall be reviewed by an external committee of experts.

(ii) SELECTION.—The external committee of experts shall be selected and convened by the Transportation Research Board of the National Research Council based on—

(I) their specific knowledge of transportation research fields or their broad knowledge of transportation research fields;

(II) their knowledge of associated educational activities;

(III) their broad knowledge of the community of transportation practitioners; and

(IV) to the extent possible, diverse representation within the review group.

(iii) DUTIES.—The external committee of experts shall evaluate proposals based on the degree to which they advance the objectives in subsection (b), the selection criteria in paragraph (2) of this subsection, and any additional review criteria set forth in the opportunity announcements described in paragraph (3) of this subsection.

(iv) REPORT.—The external committee of experts shall issue a report, published and made available to the public by the Transportation Research Board, summarizing the evaluation process and explaining its findings.

(v) COST.—The Secretary shall pay for any necessary expenses associated with peer-review with a portion of the funds assigned to the Research and Innovative Technology Administration for administration of this section.

(C) SECRETARIAL REVIEW.—The Secretary, in consultation with the Administrator of the Research and Innovative Technology Administration and Administrators of any other relevant Department of Transportation agencies, shall make final award decisions. The Secretary's decision shall consider—

(i) the findings of the committee under subparagraph (B);

(ii) the portfolio of other programs funded under this section;

(iii) the objectives set forth in subsection (b);

(iv) the criteria set forth in paragraph (2);

(v) the details included in the opportunity announcement required under paragraph (3); and

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(vi) other current proposals and previously funded proposals.

(D) TRANSPARENCY.—

(i) IN GENERAL.—The Secretary shall provide to each applicant of a proposal copies of reviews by the committee under subparagraph (B) and any other materials used in the evaluation process (with any reviewer identifying information redacted) of the applicant's proposal.

(ii) PUBLIC AVAILABILITY.—The Secretary shall make results of the review process available to all applicants and to the public on the Department's website.

(iii) REPORT.—The Secretary shall issue a public report that includes, at a minimum—

(I) the results of the peer-review process, including the findings of the committee under subparagraph (B); and

(II) the reasons for the Secretary's final decision, including a description of—

(aa) the context in which the proposal was reviewed; and

(bb) how the findings of the committee under subparagraph (B) were used in reaching the final decision.

(e) REGIONAL UNIVERSITY TRANSPORTATION CENTERS.—

(1) COMPETITION.—Not later than [March 31, 2006, and not later than March 31st of every 4th year thereafter] 180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 regional university transportation centers referred to in subsection (c)(1)(A).

* * * * *

(5) AMOUNT OF GRANTS.—The Secretary shall make a grant to a nonprofit institution of higher learning to establish and operate a regional university transportation center of—

(A) * * *

(B) \$2,000,000 for each of fiscal years 2006 through 2008; [and]

(C) \$2,250,000 for fiscal year 2009[.]; and

(D) \$3,500,000 for each of fiscal years 2013 through 2016.

(6) RESEARCH REQUIREMENT.—

(A) COMPREHENSIVE TRANSPORTATION SAFETY.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under subsection (c) for the purpose of furthering the objectives described in subsection (b) in the field of comprehensive transportation safety.

(B) INTELLIGENT TRANSPORTATION SYSTEMS.—The Secretary shall make a grant to 1 of the 10 regional university transportation centers established under subsection (c) (other than the center described in subparagraph (A)) for

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the purpose of furthering the objectives described in subsection (b) in the field of intelligent transportation systems.

(7) *COMPETITIVE PROCESS.—The Secretary shall make award decisions through a competitive process that follows the requirements described in subsections (d)(3) and (d)(4) and incorporates the additional selection criteria set forth in paragraph (2) of this subsection.*

(f) **TIER I STANDARD UNIVERSITY TRANSPORTATION CENTERS.—**

(1) **COMPETITION.—**Not later than [June 30, 2006, and not later than June 30 of every 4th year thereafter] 180 days after the date of enactment of the American Energy and Infrastructure Jobs Act of 2012, and every 4 years thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the [10 Tier I] 20 standard university transportation centers referred to in subsection (c)(1)(B).

* * * * *

(3) **GRANT RECIPIENTS.—**After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a [Tier I] standard university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

* * * * *

(5) **AMOUNT OF GRANTS.—**The Secretary shall make a grant of [\$1,000,000] \$2,000,000 for each of fiscal years [2005 through 2009] 2013 through 2016 to a nonprofit institution of higher learning to establish and operate a [Tier I] standard university transportation center.

(g) **TIER II UNIVERSITY TRANSPORTATION CENTERS.—**

(1) **SELECTION.—**The Secretary shall make grants to the nonprofit institutions of higher learning to establish and operate the 22 Tier II university transportation centers referred to in subsection (c)(2)(B).

(2) **AMOUNT OF GRANTS.—**The Secretary shall make a grant of \$500,000 for each of fiscal years 2006 through 2009 to a nonprofit institution of higher learning to establish and operate a Tier II university transportation center.

(h) (g) **SUPPORT OF NATIONAL STRATEGY FOR SURFACE TRANSPORTATION RESEARCH.—**In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall provide assurances satisfactory to the Secretary that the research and education activities of its university transportation center will support the national strategy for surface transportation research, as identified by—

(1) * * *

(2) the programs of the National Research and Technology Program of the Federal Transit Administration.

(i) **MAINTENANCE OF EFFORT.—**

(1) **IN GENERAL.—**In order to be]

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(h) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall enter into an agreement with the Secretary to ensure that the institution will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

[(2) SPECIAL RULE.—Nothing in paragraph (1) requires a nonprofit institution of higher learning designated as a Tier II university transportation center to maintain total expenditures as described in paragraph (1) in excess of the amount of the grant awarded to the institution.]

[(j) (i) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section shall be [50] 65 percent of such costs. The non-Federal share may include funds provided to a recipient under section [503] 503A, 504(b), or 505 of title 23.

[(k) (j) PROGRAM COORDINATION.—

(1) * * *

* * * * *

[(1) (k) PROGRAM ADMINISTRATION.—The Secretary shall carry out this section acting through the Administrator of the Research and Innovative Technology Administration.

[(m) (l) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary for a period of 2 years after the last day of the fiscal year for which such funds are authorized.

(m) ANNUAL REPORT.—The Secretary shall submit to the Committee on Science, Space, and Technology and 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 on the Department's Web site, an annual report on the university transportation center program under this section detailing the activities of the regional and standard centers during the previous year and how such activities reflect the priorities of the strategic plan required under section 508(a) of title 23.

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SUBTITLE IV—INTERSTATE TRANSPORTATION

* * * * *

PART A—RAIL

* * * * *

CHAPTER 109—LICENSING

* * * * *

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§ 10909. Solid waste rail transfer facility land-use exemption

(a) * * *

(b) LAND-USE EXEMPTION PROCEDURES.—Not later than 90 days after the date of enactment of the [Clean Railroad Act of 2008,] *Clean Railroads Act of 2008*, the Board shall publish procedures governing the submission and review of applications for solid waste rail transfer facility land-use exemptions. At a minimum, the procedures shall address—

(1) * * *

* * * * *

(e) EXISTING FACILITIES.—[Upon the granting of petition from the State] *Upon the granting of a petition from the State* in which a solid waste rail transfer facility is operating as of the date of enactment of the Clean Railroads Act of 2008 by the Board, the facility shall submit a complete application for a siting permit to the Board pursuant to the procedures issued pursuant to subsection (b). No State may enforce a law, regulation, order, or other requirement affecting the siting of a facility that is operating as of the date of enactment of the Clean Railroads Act of 2008 until the Board has approved or denied a permit pursuant to subsection (c).

* * * * *

PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

* * * * *

CHAPTER 135—JURISDICTION

SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

* * * * *

§ 13506. Miscellaneous motor carrier transportation exemptions

(a) IN GENERAL.—Neither the Secretary nor the Board has jurisdiction under this part over—

(1) * * *

* * * * *

(4) a motor vehicle *in interstate or intrastate commerce* controlled and operated by a farmer and transporting—

(A) * * *

* * * * *

CHAPTER 139—REGISTRATION

Sec.
13901. Requirement for registration.

* * * * *

13909. Availability of information.

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§ 13901. Requirement for registration

[A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service.]

§ 13901. Requirement for registration

(a) *IN GENERAL.*—A person may provide the following transportation or services only if the person is registered under this chapter to provide the transportation or service:

(1) Transportation as a motor carrier subject to jurisdiction under subchapter I of chapter 135.

(2) Service as a freight forwarder subject to jurisdiction under subchapter III of chapter 135.

(3) Service as a broker for transportation subject to jurisdiction under subchapter I of chapter 135.

(b) *REGISTRATION NUMBERS.*—

(1) *IN GENERAL.*—If the Secretary registers a person under this chapter to provide transportation or service, including as a motor carrier, freight forwarder, or broker, the Secretary shall issue a distinctive registration number to the person for the transportation or service. In the case of a person registered by the Secretary to provide more than one type of transportation or service, the Secretary shall issue a separate registration number to the person for each authority to provide transportation or service.

(2) *TRANSPORTATION OR SERVICE TYPE INDICATOR.*—A registration number issued under paragraph (1) shall include an indicator of the type of transportation or service for which the registration number is issued, including whether the registration number is issued for registration of a motor carrier, freight forwarder, or broker.

(c) *SPECIFICATION OF AUTHORITY.*—For each agreement to provide transportation or service for which registration is required under this chapter, the registrant shall specify, in writing, the authority under which the person is providing the transportation or service.

§ 13902. Registration of motor carriers

(a) *MOTOR CARRIER GENERALLY.*—

[(1) *IN GENERAL.*—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

[(A) this part and the applicable regulations of the Secretary and the Board;

[(B)(i) any safety regulations imposed by the Secretary;

[(ii) the duties of employers and employees established by the Secretary under section 31135; and

[(iii) the safety fitness requirements established by the Secretary under section 31144;

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[(C) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus; and

[(D) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.

[(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after that person—

[(A) provides evidence of participation in an arbitration program and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

[(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c);

[(C) provides evidence that it has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; and

[(D) discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration.]

(1) *IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier using self-propelled vehicles the motor carrier owns, rents, or leases if the Secretary finds that the person—*

(A) is willing and able to comply with—

(i) this part and the applicable regulations of the Secretary and the Board;

(ii) any safety regulations imposed by the Secretary;

(iii) the duties of employers and employees established by the Secretary under section 31135;

(iv) the safety fitness requirements established by the Secretary under section 31144;

(v) the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or a successor regulation, for transportation provided by an over-the-road bus; and

(vi) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138;

(B) has demonstrated, through successful completion of a proficiency examination, to be developed by the Secretary

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by regulation, knowledge of the requirements and regulations described in subparagraph (A);

(C) has disclosed to the Secretary any relationship involving common stock, common ownership, common control, common management, or common familial relationship between that person and any other motor carrier in the 3-year period preceding the date of the filing of the application for registration; and

(D) has been issued a Department of Transportation number under section 31134.

(2) REGISTRATION FOR HOUSEHOLD GOODS MOTOR CARRIERS.—

(A) ADDITIONAL REQUIREMENTS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after the person—

(i) provides evidence of participation in an arbitration program under section 14708 and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);

(ii) identifies the motor carrier's tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c);

(iii) provides evidence that the person has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage;

(iv) discloses any relationship involving common stock, common ownership, common control, common management, or common familial relationships between the person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration;

(v) demonstrates that the person is willing and able to comply with the household goods consumer protection rules of the Secretary; and

(vi) demonstrates, through successful completion of a proficiency examination, to be developed by the Secretary by regulation, knowledge of the requirements and regulations described in this subparagraph.

(B) HOUSEHOLD GOODS AUDITS.—

(i) IN GENERAL.—The Secretary shall require, by regulation, each registrant described in subparagraph (A) to undergo a household goods audit during the 180-day period beginning 1 year after the date of issuance of a provisional registration to the registrant.

(ii) REGULATIONS.—

(I) DEADLINE.—The Secretary shall issue regulations under clause (i) not later than 2 years after the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012.

(II) *ISSUANCE OF STANDARDS.*—The regulations shall include standards for household goods audits.

(iii) *CONTENTS.*—The Secretary shall ensure that the standards issued under clause (ii)(II) require evidence demonstrating that a registrant described in subparagraph (A)—

(I) has consistently adhered to the household goods regulations of the Secretary;

(II) has consistently adhered to the requirements of its tariff;

(III) has not wrongfully withheld the household goods of a customer;

(IV) has not had a pattern of substantiated customer service complaints filed against it; and

(V) has complied with all relevant arbitration requirements.

(C) *CORRECTIVE ACTION PLAN.*—

(i) *IN GENERAL.*—If a registrant described in subparagraph (A) fails a household goods audit, the registrant may submit to the Secretary for approval a corrective action plan to address deficiencies identified in the audit. The registrant shall submit the plan during the 60-day period beginning on the date the registrant is notified of the results of the audit.

(ii) *DEADLINE FOR APPROVAL OR DISAPPROVAL.*—The Secretary shall approve or disapprove a corrective action plan submitted under clause (i) not later than 60 days after the date of submission of the plan.

(iii) *ASSESSMENT OF IMPLEMENTATION OF CORRECTIVE ACTION PLAN.*—If the Secretary approves a corrective action plan submitted by a registrant under clause (i), the Secretary shall determine, during the 1-year period beginning on the date of such approval, whether the registrant has carried out the plan satisfactorily.

(D) *PROVISIONAL REGISTRATION.*—

(i) *IN GENERAL.*—Any registration issued under subparagraph (A) shall be designated as a provisional registration until the audit required by subparagraph (B) is completed.

(ii) *REQUIREMENT FOR ISSUANCE OF PERMANENT REGISTRATION.*—A provisional registration issued to a registrant under subparagraph (A) shall become permanent after the registrant—

(I) passes the household goods audit required under subparagraph (B); or

(II) implements to the satisfaction of the Secretary a corrective action plan under subparagraph (C).

(iii) *REVOCATION OF PROVISIONAL REGISTRATION.*—If a registrant fails a household goods audit required under subparagraph (B) or does not implement to the satisfaction of the Secretary a corrective action plan

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under subparagraph (C), the Secretary shall revoke the provisional registration of the registrant.

(E) REAPPLYING FOR REGISTRATION.—

(i) IN GENERAL.—Nothing in this paragraph permanently prohibits a person from reapplying for registration to provide transportation of household goods as a household goods motor carrier.

(ii) LIMITATION.—If the Secretary revokes the provisional registration of a person under this paragraph, the person shall be required to wait at least 1 year before reapplying for a registration to provide transportation of household goods as a household goods motor carrier.

* * * * *

(6) SEPARATE REGISTRATION REQUIRED.—*A motor carrier may not broker transportation services unless the motor carrier has registered as a broker under this chapter.*

* * * * *

(g) REGISTRATION AS FREIGHT FORWARDER OR BROKER REQUIRED.—*A motor carrier registered under this chapter—*

(1) may only provide transportation of property with—

(A) self-propelled motor vehicles owned or leased by the motor carrier; or

(B) interchanges, as permitted under regulations issued by the Secretary and subject to requirements that the originating carrier physically transports the cargo at some point and retains liability for the cargo and payment of interchanged carriers; and

(2) may not arrange such transportation unless the motor carrier has obtained a separate registration as a freight forwarder or broker for transportation under section 13903 or 13904, as the case may be.

[(g)] (h) MOTOR CARRIER DEFINED.—*In this section and sections 13905 and 13906, the term “motor carrier” includes foreign motor private carriers.*

[§ 13903. Registration of freight forwarders

[(a) IN GENERAL.—*The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.*

[(b) REGISTRATION AS CARRIER REQUIRED.—*The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has registered to provide transportation as a carrier under this chapter.*

[§ 13904. Registration of brokers

[(a) IN GENERAL.—*The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker*

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for transportation and to comply with this part and applicable regulations of the Secretary.

[(b) REGISTRATION AS CARRIER REQUIRED.—

[(1) IN GENERAL.—The broker may provide the transportation itself only if the broker also has been registered to provide the transportation as a motor carrier under this chapter.

[(2) LIMITATION.—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier, with other registered motor carriers, or with rail or water carriers.

[(c) REGULATIONS TO PROTECT SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle.

[(d) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.]

§ 13903. Registration of freight forwarders

*(a) IN GENERAL.—*The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person—

(1) is qualified by experience to act as a freight forwarder; and

(2) is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary.

*(b) FINANCIAL SECURITY REQUIREMENTS.—*A registration issued under subsection (a) shall remain in effect only as long as the freight forwarder is in compliance with section 13906(c).

*(c) EXPERIENCE OR TRAINING REQUIREMENT.—*A freight forwarder shall employ, as an officer, an individual who—

(1) has at least 3 years of relevant experience; or

(2) provides the Secretary with satisfactory evidence of completion of relevant training.

*(d) REGISTRATION AS MOTOR CARRIER REQUIRED.—*A freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has registered separately under this chapter to provide transportation as a motor carrier.

§ 13904. Registration of brokers

*(a) IN GENERAL.—*The Secretary shall register a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person—

(1) is qualified by experience to act as a broker for transportation; and

(2) is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.

*(b) FINANCIAL SECURITY REQUIREMENTS.—*A registration issued under subsection (a) shall remain in effect only as long as the broker for transportation is in compliance with section 13906(b).

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(c) *EXPERIENCE OR TRAINING REQUIREMENT.*—A broker shall employ, as an officer, an individual who—

(1) has at least 3 years of relevant experience; or

(2) provides the Secretary with satisfactory evidence of completion of relevant training.

(d) *REGISTRATION AS MOTOR CARRIER REQUIRED.*—

(1) *IN GENERAL.*—A broker for transportation may not provide transportation as a motor carrier unless the broker has registered separately under this chapter to provide transportation as a motor carrier.

(2) *LIMITATION.*—This subsection does not apply to a motor carrier registered under this chapter or to an employee or agent of the motor carrier to the extent the transportation is to be provided entirely by the motor carrier.

(e) *REGULATIONS TO PROTECT MOTOR CARRIERS AND SHIPPERS.*—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of motor carriers and shippers by motor vehicle.

(f) *BOND AND INSURANCE.*—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance (or both) as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

§ 13905. Effective periods of registration

(a) * * *

* * * * *

[(c) *IN GENERAL.*—Except as otherwise provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.]

(c) *EFFECTIVE PERIOD.*—

(1) *IN GENERAL.*—Except as provided in this part, each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect for such period as the Secretary determines appropriate by regulation.

(2) *REISSUANCE OF REGISTRATION.*—Not later than 4 years after the date of enactment of the Motor Carrier Safety, Efficiency, and Accountability Act of 2012, the Secretary shall require a freight forwarder or broker to renew its registration issued under this chapter. Such registration shall expire not later than 5 years after the date of such renewal and may be further renewed as provided under this chapter.

(3) *REQUIREMENT FOR INFORMATION UPDATE.*—

(A) *IN GENERAL.*—The Secretary shall require a motor carrier, freight forwarder, or broker to update its registration information under this chapter within 30 days of any change in address, other contact information, officers, process agent, or other essential information as determined by the Secretary and published in the Federal Register.

(B) *MOTOR CARRIERS OF PASSENGERS.*—In addition to the requirements of subparagraph (A), the Secretary shall

require a motor carrier of passengers to update its registration information, including numbers of vehicles, annual mileage, and individuals responsible for compliance with Federal safety regulations quarterly for the first 2 years after being issued a registration under section 13902.

(d) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—

[(1) IN GENERAL.—On application of the registrant, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may (A) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Board (including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or such successor regulations to those accessibility requirements as the Secretary may issue, for transportation provided by an over-the-road bus), or a condition of its registration; and (B) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder: (i) for failure to pay a civil penalty imposed under chapter 5, 51, 149, or 311 of this title; or (ii) for failure to arrange and abide by an acceptable payment plan for such civil penalty, within 90 days of the time specified by order of the Secretary for the payment of such penalty. Subparagraph (B) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.]

(1) APPLICATIONS.—*On application of the registrant, the Secretary may deny, suspend, amend, or revoke a registration.*

(2) COMPLAINTS AND ACTIONS ON SECRETARY'S OWN INITIATIVE.—*On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may—*

(A) deny, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with—

(i) this part;

(ii) an applicable regulation or order of the Secretary or the Board, including the accessibility requirements established by the Secretary under subpart H of part 37 of title 49, Code of Federal Regulations, or a successor regulation, for transportation provided by an over-the-road bus; or

(iii) a condition of its registration;

(B) deny, suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for failure to—

(i) pay a civil penalty imposed under chapter 5, 51, 149, or 311 of this title; or

(ii) arrange and abide by an acceptable payment plan for such civil penalty, within 90 days of the time specified by order of the Secretary for the payment of such penalty; and

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(C) deny, suspend, amend, or revoke any part of a registration of a motor carrier following a determination by the Secretary that the motor carrier failed to disclose in its application for registration a material fact relevant to its willingness and ability to comply with—

- (i) this part;
- (ii) an applicable regulation or order of the Secretary or the Board; or
- (iii) a condition of its registration.

(3) LIMITATION.—Paragraph (2)(B) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11.

[(2)] (4) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and opportunity for public comment, shall issue regulations to provide for the suspension, amendment, or revocation of a registration under this part for failure to pay a civil penalty as provided in [paragraph (1)(B)] paragraph (2)(B).

(e) PROCEDURE.—Except on application of the registrant or if the Secretary determines that the registrant has failed to disclose a material fact in an application for registration in accordance with subsection (d)(2)(C), the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

(1) * * *

* * * * *

§ 13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders

(a) * * *

[(b) BROKER REQUIREMENTS.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

[(c) FREIGHT FORWARDER REQUIREMENTS.—

[(1) LIABILITY INSURANCE.—The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

[(2) FREIGHT FORWARDER INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by

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the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

[(3) EFFECTIVE PERIOD.—The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.]

(b) BROKER FINANCIAL SECURITY REQUIREMENTS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER SURETY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a broker arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

(i) subject to the review by the surety provider, the broker consents to the payment;

(ii) in the case the broker does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii) and the claim is reduced to a judgment against the broker.

(B) RESPONSE OF SURETY PROVIDERS TO CLAIMS.—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

(i) respond to the claim on or before the 30th day following receipt of the notice; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

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(C) **COSTS AND ATTORNEYS FEES.**—*In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorneys fees.*

(3) **MINIMUM FINANCIAL SECURITY.**—*A broker subject to the requirements of this section shall provide financial security of \$100,000, regardless of the number of branch offices or sales agents of the broker.*

(4) **CANCELLATION NOTICE.**—*If a financial security required under this subsection is canceled—*

(A) *the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and*

(B) *the Secretary shall immediately post such notification on the public Internet Web site of the Department of Transportation.*

(5) **SUSPENSION.**—*The Secretary shall immediately suspend the registration of a broker issued under this chapter if the available financial security of the broker falls below the amount required under this subsection.*

(6) **PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.**—*If a broker registered under this chapter experiences financial failure or insolvency, the surety provider of the broker shall—*

(A) *submit a notice to cancel the financial security to the Administrator in accordance with paragraph (4);*

(B) *publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and*

(C) *pay, not later than 30 days after the expiration of the 60-day period for submission of claims—*

(i) *all uncontested claims received during such period; or*

(ii) *a pro rata share of such claims if the total amount of such claims exceeds the financial security available.*

(7) **PENALTIES.**—

(A) **CIVIL ACTIONS.**—*Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.*

(B) **CIVIL PENALTIES.**—*If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.*

(C) **ELIGIBILITY.**—*If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a broker registered under this chapter has violated the*

requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide the financial security of a broker for 5 years.

(8) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

(9) FINANCIAL SECURITY AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amounts of the financial security required under this subsection to determine whether the amounts are sufficient to provide adequate financial security, and shall be authorized to increase the amounts, if necessary, based upon that determination.

(c) FREIGHT FORWARDER FINANCIAL SECURITY REQUIREMENTS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, proof of trust fund, or other financial security, or a combination thereof, in a form and amount, and from a provider, determined by the Secretary to be adequate to ensure financial responsibility.

(B) USE OF A GROUP SURETY BOND, TRUST FUND, OR OTHER FINANCIAL SECURITY.—In implementing the standards established by subparagraph (A), the Secretary may authorize the use of a group surety bond, trust fund, or other financial security, or a combination thereof, that meets the requirements of this subsection.

(C) SURETY BONDS.—A surety bond obtained under this section may only be obtained from a bonding company that has been approved by the Secretary of the Treasury.

(D) PROOF OF TRUST OR OTHER FINANCIAL SECURITY.—For purposes of subparagraph (A), a trust fund or other financial security may be acceptable to the Secretary only if the trust fund or other financial security consists of assets readily available to pay claims without resort to personal guarantees or collection of pledged accounts receivable.

(2) SCOPE OF FINANCIAL RESPONSIBILITY.—

(A) PAYMENT OF CLAIMS.—A surety bond, trust fund, or other financial security obtained under paragraph (1) shall be available to pay any claim against a freight forwarder arising from its failure to pay freight charges under its contracts, agreements, or arrangements for transportation subject to jurisdiction under chapter 135 if—

(i) subject to the review by the surety provider, the freight forwarder consents to the payment;

(ii) in the case the freight forwarder does not respond to adequate notice to address the validity of the claim, the surety provider determines the claim is valid; or

(iii) the claim is not resolved within a reasonable period of time following a reasonable attempt by the claimant to resolve the claim under clauses (i) and (ii)

and the claim is reduced to a judgment against the freight forwarder.

(B) *RESPONSE OF SURETY PROVIDERS TO CLAIMS.*—If a surety provider receives notice of a claim described in subparagraph (A), the surety provider shall—

(i) respond to the claim on or before the 30th day following receipt of the notice; and

(ii) in the case of a denial, set forth in writing for the claimant the grounds for the denial.

(C) *COSTS AND ATTORNEYS FEES.*—In any action against a surety provider to recover on a claim described in subparagraph (A), the prevailing party shall be entitled to recover its reasonable costs and attorneys fees.

(3) *FREIGHT FORWARDER INSURANCE.*—

(A) *IN GENERAL.*—The Secretary may register a person as a freight forwarder under section 13903 only if the person files with the Secretary a surety bond, insurance policy, or other type of financial security that meets standards to be prescribed by the Secretary.

(B) *LIABILITY INSURANCE.*—A financial security filed by a freight forwarder under subparagraph (A) shall be sufficient to pay an amount, not to exceed the amount of the financial security, for each final judgment against the freight forwarder for—

(i) bodily injury to, or death of, an individual, or

(ii) loss of, or damage to, property (other than property referred to in subparagraph (C)),

resulting from the negligent operation, maintenance, or use of motor vehicles by, or under the direction and control of, the freight forwarder when providing transfer, collection, or delivery service under this part.

(C) *CARGO INSURANCE.*—The Secretary may require a registered freight forwarder to file with the Secretary a surety bond, insurance policy, or other type of financial security approved by the Secretary that will pay an amount, not to exceed the amount of the financial security, for loss of, or damage to, property for which the freight forwarder provides service.

(4) *MINIMUM FINANCIAL SECURITY.*—Each freight forwarder subject to the requirements of this section shall provide financial security of \$100,000, regardless of the number of branch offices or sales agents of the freight forwarder.

(5) *CANCELLATION NOTICE.*—If a financial security required under this subsection is canceled—

(A) the holder of the financial security shall provide electronic notification to the Secretary of the cancellation not later than 30 days before the effective date of the cancellation; and

(B) the Secretary shall immediately post such notification on the public Internet Web site of the Department of Transportation.

(6) *SUSPENSION.*—The Secretary shall immediately suspend the registration of a freight forwarder issued under this chapter

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if the available financial security of the freight forwarder falls below the amount required under this subsection.

(7) PAYMENT OF CLAIMS IN CASES OF FINANCIAL FAILURE OR INSOLVENCY.—If a freight forwarder registered under this chapter experiences financial failure or insolvency, the surety provider of the freight forwarder shall—

(A) submit a notice to cancel the financial security to the Administrator in accordance with paragraph (5);

(B) publicly advertise for claims for 60 days beginning on the date of publication by the Secretary of the notice to cancel the financial security; and

(C) pay, not later than 30 days after the expiration of the 60-day period for submission of claims—

(i) all uncontested claims received during such period; or

(ii) a pro rata share of such claims if the total amount of such claims exceeds the financial security available.

(8) PENALTIES.—

(A) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce the requirements of this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

(B) CIVIL PENALTIES.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000.

(C) ELIGIBILITY.—If the Secretary determines, after notice and opportunity for a hearing, that a surety provider of a freight forwarder registered under this chapter has violated the requirements of this subsection or a regulation prescribed under this subsection, the surety provider shall be ineligible to provide the financial security of a freight forwarder for 5 years.

(9) DEDUCTION OF COSTS PROHIBITED.—The amount of the financial security required under this subsection may not be reduced by deducting attorney's fees or administrative costs.

(10) FINANCIAL SECURITY AND INSURANCE AMOUNT ASSESSMENT.—Every 5 years, the Secretary shall review, with public notice and comment, the amounts of the financial security and insurance required under this subsection to determine whether the amounts are sufficient to provide adequate financial security, and shall be authorized to increase the amounts, if necessary, based upon that determination.

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§ 13908. Registration and other reforms

(a) * * *

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(d) **FEE SYSTEM.**—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:

(1) **REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.**—The fee for new registrants shall as nearly as possible cover the costs of processing the registration [but shall not exceed \$300].

§ 13909. Availability of information

The Secretary shall make information relating to registration and financial security required by this chapter publicly available on the Internet, including—

- (1) *the names and addresses of the principals of each entity holding such registration;*
- (2) *the status of such registration; and*
- (3) *the electronic address of the entity's surety provider for the submission of claims.*

CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

Sec.
14901. General civil penalties.

14916. Unlawful brokerage activities.

§ 14916. Unlawful brokerage activities

(a) **PROHIBITED ACTIVITIES.**—A person may provide interstate brokerage services as a broker only if the person—

- (1) *is registered under, and in compliance with, section 13904; and*
- (2) *has satisfied the financial security requirements under section 13906.*

(b) **EXCEPTIONS.**—Subsection (a) shall not apply to—

- (1) *a non-vessel-operating common carrier (as defined in section 40102 of title 46);*
- (2) *an ocean freight forwarder (as defined in section 40102 of title 46);*
- (3) *a customs broker licensed in accordance with section 111.2 of title 19, Code of Federal Regulations; or*
- (4) *an indirect air carrier holding a Standard Security Program approved by the Transportation Security Administration, when arranging for inland transportation as part of an international through movement involving ocean transportation between the United States and a foreign port.*

(c) **CIVIL PENALTIES AND PRIVATE CAUSE OF ACTION.**—Any person who knowingly authorizes, consents to, or permits, directly or

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indirectly, either alone or in conjunction with any other person, a violation of subsection (a) is liable—

(1) to the United States Government for a civil penalty in an amount not to exceed \$10,000 for each violation; and

(2) to the injured party for all valid claims incurred without regard to amount.

(d) *LIABLE PARTIES.*—The liability for civil penalties and for claims under this section for unauthorized brokering shall apply, jointly and severally—

(1) to any corporate entity or partnership involved; and

(2) to the individual officers, directors, and principals of such entities.

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SUBTITLE V—RAIL PROGRAMS

PART A—SAFETY

Chapter	Sec.
201. General	20101
* * * * *	

PART B—ASSISTANCE

* * * * *	
[223. Capital Grants for Class II and Class III Railroads	22301]
* * * * *	
229. Project development and review	22901
* * * * *	

PART A—SAFETY

* * * * *

CHAPTER 201—GENERAL

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SUBCHAPTER I—GENERAL

* * * * *

§ 20116. Rulemaking process

No rule or order issued by the Secretary under this part shall be effective if it incorporates by reference a code, rule, standard, requirement, or practice issued by an association or other entity that is not an agency of the Federal Government, unless (1) the date on which the code, rule, standard, requirement, or practice was adopted is specifically cited in the rule or order, or (2) the code, rule, standard, requirement, or practice has been subject to notice and comment under a rule or order issued under this part.

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§ 20120. Enforcement report

(a) IN GENERAL.—Beginning not later than December 31, 2009, the Secretary of Transportation shall make available to the public and publish on its public [website] *Web site* an annual report that—

(1) provides a summary of railroad safety and hazardous materials compliance inspections and audits that Federal or State inspectors conducted in the prior fiscal year organized by type of alleged violation, including track, motive power and equipment, signal, grade crossing, operating practices, [accident and incidence reporting] *accident and incident reporting*, and hazardous materials;

(2) provides a summary of all enforcement actions taken by the Secretary or the Federal Railroad Administration during the prior fiscal year, including—

(A) * * *

* * * * *

(G) the number of cases referred to the Attorney General for civil or criminal prosecution; *and*

* * * * *

(5) identifies the number of locomotive engineer certification denial or revocation cases appealed to and the average length of time it took to be decided by—

(A) * * *

(B) an [Administrative Hearing Officer or Administrative Law Judge] *administrative hearing officer or administrative law judge*; or

* * * * *

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

* * * * *

§ 20156. Railroad safety risk reduction program

(a) * * *

* * * * *

(c) RISK ANALYSIS.—In developing its railroad safety risk reduction program, each railroad carrier required to submit such a program pursuant to subsection (a) shall identify and analyze the aspects of its railroad, including operating rules and practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure, employee training, and other matters, including those not covered by railroad safety regulations or other Federal regulations, that impact railroad safety.

* * * * *

(e) TECHNOLOGY IMPLEMENTATION PLAN.—

(1) * * *

* * * * *

[(4) POSITIVE TRAIN CONTROL.—Except as required by section 20157 (relating to the requirements for implementation of

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positive train control systems), the Secretary shall ensure that—

[(A) each railroad carrier's technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule; and

[(B) each railroad carrier required to submit such a plan implements a positive train control system pursuant to such plan by December 31, 2018.]

(4) *POSITIVE TRAIN CONTROL.*—*Except as required by section 20157 (relating to the requirements for implementation of positive train control systems), the Secretary shall ensure that each railroad carrier's technology implementation plan required under paragraph (1) that includes a schedule for implementation of a positive train control system complies with that schedule. Nothing in this section shall be construed as requiring the installation of positive train control on railroad tracks if positive train control is not required on those tracks by section 20157 and positive train control on those tracks is not chosen by the railroad as a technology to be implemented under this section.*

* * * * *

(g) **CONSENSUS.**—

(1) **IN GENERAL.**—Each railroad carrier required to submit a railroad safety risk reduction program under subsection (a) shall consult with, employ good faith, and use its best efforts to reach agreement with, all of its directly affected employees, including any [non-profit] *nonprofit* employee labor organization representing a class or craft of directly affected employees of the railroad carrier, on the contents of the safety risk reduction program.

* * * * *

§ 20157. Implementation of positive train control systems

(a) **IN GENERAL.**—

(1) **PLAN REQUIRED.**—Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, each Class I railroad carrier and each entity providing regularly scheduled intercity or commuter rail passenger transportation shall develop and submit to the Secretary of Transportation a plan for implementing a positive train control system by [December 31, 2015] *December 31, 2020*, governing operations on—

(A) its main line over which intercity rail passenger transportation or commuter rail passenger transportation, as defined in section 24102, is regularly provided; *and*

(B) its main line over which poison- or toxic-by-inhalation hazardous materials, as defined in [parts 171.8, 173.115, and 173.132] *sections 171.8, 173.115, and 173.132* of title 49, Code of Federal Regulations, are transported[; and] *on or after December 31, 2020.*

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[(C) such other tracks as the Secretary may prescribe by regulation or order.]

* * * * *

(3) *ALTERNATIVE STRATEGY.*—A plan submitted under this subsection may provide that, in lieu of installing positive train control on all or some of the tracks on which positive train control is otherwise required to be installed pursuant to paragraph (1)(B), the railroad carrier will utilize an alternative risk reduction strategy that would reduce the risk of release of poison- or toxic-by-inhalation hazardous materials to the same extent the risk of a release of poison- or toxic-by-inhalation hazardous materials would be reduced if positive train control were installed on those tracks. An alternative risk reduction strategy may only be used pursuant to this paragraph on tracks for which positive train control is not required pursuant to paragraph (1)(A).

* * * * *

(c) *REVIEW AND [APPROVAL.*—Not later than 90 days after the Secretary receives a plan] *APPROVAL.*—

(1) *IN GENERAL.*—Not later than 90 days after the Secretary receives a plan or revision of a plan under this section, the Secretary shall review and approve or disapprove it. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier or other entity as to the specific areas in which the proposed plan is deficient, and the railroad carrier or other entity shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans.

(2) *REVISION OF PLAN.*—A railroad carrier may revise a plan under this section as necessary to reflect rail lines that are added or removed, or to reflect alternative risk reduction strategies proposed pursuant to subsection (a)(3).

(d) *REPORT.*—Not later than [December 31, 2012] *December 31, 2015*, the Secretary shall transmit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the progress of the railroad carriers in implementing such positive train control systems and alternative risk reduction strategies. Such report shall include any recommendations for improving the ability of rail carriers to implement positive train control systems or alternative risk reduction strategies in accordance with this section.

(e) *ENFORCEMENT.*—The Secretary is authorized to assess civil penalties pursuant to chapter 213 for a violation of this section, including the failure to submit or comply with a plan for implementing positive train control and alternative risk reduction strategies under subsection (a).

(f) *OTHER RAILROAD CARRIERS.*—Nothing in this section restricts the discretion of the Secretary to require railroad carriers other than those specified in subsection (a) to implement a positive train control system pursuant to this section [or section 20156], or to specify the period by which implementation shall occur that does not exceed the time limits established in this section or section

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20156. In exercising such discretion, the Secretary shall, at a minimum, consider the risk to railroad employees and the public associated with the operations of the railroad carrier.

* * * * *

§ 20159. Roadway user sight distance at highway-rail grade crossings

Not later than 18 months after the date of enactment of the Rail Safety Improvement Act of 2008, [the Secretary] *the Secretary of Transportation*, after consultation with the Federal Railroad Administration, the Federal Highway Administration, and States, shall develop and make available to States model legislation providing for improving safety by addressing sight obstructions, including vegetation growth, topographic features, structures, and standing railroad equipment, at highway-rail grade crossings that are equipped solely with passive warnings, as recommended by the Inspector General of the Department of Transportation in Report No. MH-2007-044.

§ 20160. National crossing inventory

(a) INITIAL REPORTING OF INFORMATION ABOUT PREVIOUSLY UNREPORTED CROSSINGS.—Not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008 or 6 months after a new crossing becomes operational, whichever occurs later, each railroad carrier shall—

(1) report to the Secretary of Transportation current information, including information about warning devices and signage, as specified by the Secretary, concerning each previously unreported crossing through which it operates [or with] *with* respect to the trackage over which it operates; or

* * * * *

(b) UPDATING OF CROSSING INFORMATION.—

(1) On a periodic basis beginning not later than 2 years after the date of enactment of the Rail Safety Improvement Act of 2008 and on or before September 30 of every year thereafter, or as otherwise specified by the Secretary, each railroad carrier shall—

(A) report to the Secretary current information, including information about warning devices and signage, as specified by the Secretary, concerning each crossing through which it operates [or with] *with* respect to the trackage over which it operates; or

* * * * *

§ 20162. Minimum training standards and plans

(a) IN GENERAL.—The Secretary of Transportation shall, not later than 1 year after the date of enactment of the Rail Safety Improvement Act of 2008, establish—

(1) * * *

* * * * *

(3) a minimum training curriculum, and ongoing training criteria, testing, and skills evaluation measures to ensure that

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safety-related railroad employees, and contractor and subcontractor employees, charged with the inspection of track or railroad equipment are qualified to assess [railroad compliance with Federal standards] *railroad carrier compliance with Federal standards* to identify defective conditions and initiate immediate remedial action to correct critical safety defects that are known to contribute to derailments, accidents, incidents, or injuries, and, in implementing the requirements of this paragraph, take into consideration existing training programs of railroad carriers.

* * * * *

§ 20164. Development and use of rail safety technology

(a) IN GENERAL.—Not later than 1 year [after enactment of the Railroad Safety Enhancement Act of 2008] *after the enactment of the Rail Safety Improvement Act of 2008*, the Secretary of Transportation shall prescribe standards, guidance, regulations, or orders governing the development, use, and implementation of rail safety technology in dark territory, in arrangements not defined in section 20501 or otherwise not covered by Federal standards, guidance, regulations, or orders that ensure the safe operation of such technology, such as—

(1) * * *

* * * * *

PART B—ASSISTANCE

* * * * *

CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

* * * * *

§ 22106. Limitations on financial assistance

(a) * * *

(b) STATE USE OF REPAID FUNDS AND CONTINGENT INTEREST RECOVERIES.—The State shall place the United States Government's share of money that is repaid and any contingent interest that is recovered in an interest-bearing account. The repaid money, contingent interest, and any [interest thereof] *interest thereon* shall be considered to be State funds. The State shall use such funds to make other grants and loans, consistent with the purposes for which financial assistance may be used under subsection (a), as the State considers to be appropriate.

* * * * *

[CHAPTER 223—CAPITAL GRANTS FOR CLASS II AND CLASS III RAILROADS

[Sec. 22301. Capital grants for class II and class III railroads.

[§ 22301. Capital grants for class II and class III railroads

[(a) ESTABLISHMENT OF PROGRAM.—

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[(1) ESTABLISHMENT.—The Secretary of Transportation shall establish a program for making capital grants to class II and class III railroads. Such grants shall be for projects in the public interest that—

[(A)(i) rehabilitate, preserve, or improve railroad track (including roadbed, bridges, and related track structures) used primarily for freight transportation;

[(ii) facilitate the continued or greater use of railroad transportation for freight shipments; and

[(iii) reduce the use of less fuel efficient modes of transportation in the transportation of such shipments; or

[(B) demonstrate innovative technologies and advanced research and development that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation.

[(2) PROVISION OF GRANTS.—Grants may be provided under this chapter—

[(A) directly to the class II or class III railroad; or

[(B) with the concurrence of the class II or class III railroad, to a State or local government.

[(3) STATE COOPERATION.—Class II and class III railroad applicants for a grant under this chapter are encouraged to utilize the expertise and assistance of State transportation agencies in applying for and administering such grants. State transportation agencies are encouraged to provide such expertise and assistance to such railroads.

[(4) REGULATIONS.—Not later than October 1, 2008, the Secretary shall issue final regulations to implement the program under this section.

[(b) MAXIMUM FEDERAL SHARE.—The maximum Federal share for carrying out a project under this section shall be 80 percent of the project cost. The non-Federal share may be provided by any non-Federal source in cash, equipment, or supplies. Other in-kind contributions may be approved by the Secretary on a case-by-case basis consistent with this chapter.

[(c) USE OF FUNDS.—Grants provided under this section shall be used to implement track capital projects as soon as possible. In no event shall grant funds be contractually obligated for a project later than the end of the third Federal fiscal year following the year in which the grant was awarded. Any funds not so obligated by the end of such fiscal year shall be returned to the Secretary for reallocation.

[(d) EMPLOYEE PROTECTION.—The Secretary shall require as a condition of any grant made under this section that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of this chapter.

[(e) LABOR STANDARDS.—

[(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by

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the Secretary of Labor under subchapter IV of chapter 31 of title 40 (commonly known as the "Davis-Bacon Act"). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

[(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the subchapter IV of chapter 31 of title 40.

[(f) STUDY.—The Secretary shall conduct a study of the projects carried out with grant assistance under this section to determine the extent to which the program helps promote a reduction in fuel use associated with the transportation of freight and demonstrates innovative technologies that increase fuel economy, reduce greenhouse gas emissions, and lower the costs of operation. Not later than March 31, 2009, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the study, including any recommendations the Secretary considers appropriate regarding the program.

[(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$50,000,000 for each of fiscal years 2008 through 2011 for carrying out this section.]

* * * * *

CHAPTER 229—PROJECT DEVELOPMENT AND REVIEW

Sec.

- 22901. *Applicability.*
- 22902. *Definitions.*
- 22903. *Efficient environmental reviews for rail project decisionmaking.*
- 22904. *Integration of planning and environmental review.*
- 22905. *Program for eliminating duplication of environmental reviews.*
- 22906. *Railroad corridor preservation.*
- 22907. *Treatment of railroads for historic preservation.*
- 22908. *Categorical exclusion.*
- 22909. *State assumption of responsibility for categorical exclusions.*
- 22910. *Rail project delivery program.*
- 22911. *Exemption in emergencies.*

§ 22901. Applicability

The provisions of this chapter—

- (1) *shall be applicable to any freight or intercity passenger rail capital project that is carried out or planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument;*
- (2) *shall be broadly construed; and*
- (3) *may be applied by the Secretary to any class or program of such projects.*

§ 22902. Definitions

In this chapter, the following definitions apply:

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(1) **AGENCY.**—The term “agency” means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

(2) **ENVIRONMENTAL IMPACT STATEMENT.**—The term “environmental impact statement” means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) **ENVIRONMENTAL LAW.**—The term “environmental law” includes any law that provides procedural or substantive protection, as applicable, for the natural or built environment with regard to the construction and operation of transportation projects.

(4) **ENVIRONMENTAL REVIEW PROCESS.**—

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

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

(5) **FEDERAL ENVIRONMENTAL LAWS.**—The term “Federal environmental laws” means Federal laws governing the review, including through the issuance of permits and other approvals of environmental impacts of, the construction and operation of transportation projects. Such term includes section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), section 106 of the National Historic Preservation Act (16 U.S.C. 470f), and sections 7(a)(2), 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2), 1538(a)(1)(B), 1539(a)(1)(B)).

(6) **FEDERAL LEAD AGENCY.**—The term “Federal lead agency” means the Department of Transportation.

(7) **JOINT LEAD AGENCY.**—The term “joint lead agency” means an agency designated as a joint lead agency as described in paragraph (1) or (2) of section 22903(b).

(8) **LEAD AGENCY.**—The term “lead agency” means the Department of Transportation and, if applicable, any joint lead agency.

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

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

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(11) **RAIL PROJECT.**—The term “rail project” means any freight or intercity passenger rail capital project that is carried out or is planned to be carried out with the use of Federal funds administered by the Federal Railroad Administration through a grant, contract, loan, or other financing instrument.

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

(13) **STATE.**—The term “State” has the meaning given that term in section 22701(3).

(14) **STATE TRANSPORTATION DEPARTMENT.**—The term “State transportation department” means any statewide agency of a State with responsibility for one or more modes of transportation.

§ 22903. Efficient environmental reviews for rail project decisionmaking

(a) APPLICABILITY.—

(1) **IN GENERAL.**—The project development procedures in this section are applicable to all rail projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 and may be applied, to the extent determined appropriate by the Secretary, to other rail projects for which an environmental document is prepared as part of an environmental review process.

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

(3) **FUNDING THRESHOLD.**—The Secretary’s approval of a rail project involving Federal funds shall not be considered a Federal action for the purposes of the National Environmental Policy Act of 1969 if the Federal funding share—

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

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

(4) **PROGRAMMATIC COMPLIANCE.**—At the request of a State, the Secretary may modify the procedures developed under this section to encourage programmatic approaches and strategies with respect to environmental programs and permits (in lieu of project-by-project reviews).

(b) LEAD AGENCIES.—

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

(2) **JOINT LEAD AGENCIES.**—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969.

(3) **PROJECT SPONSOR AS JOINT LEAD AGENCY.**—Any project sponsor that is a State or local governmental entity applying to receive or receiving Federal funds for the rail project shall serve as a joint lead agency with the Department of Transportation

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for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.

(4) ENSURING COMPLIANCE.—The Secretary shall ensure that a project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection, and that such document is appropriately supplemented if rail project changes become necessary.

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

(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any rail project, the lead agency shall have authority and responsibility—

(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the rail project; and

(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 is completed in accordance with this section and other applicable Federal law.

(c) PARTICIPATING AGENCIES.—

(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a rail project, any other Federal and non-Federal agencies that may have an interest in the rail project, and shall invite such agencies to become participating agencies in the environmental review process for the rail project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.

(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a rail project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

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(A) has no jurisdiction or authority with respect to the rail project;

(B) has no expertise or information relevant to the rail project; and

(C) does not intend to submit comments on the rail project.

(4) EFFECT OF DESIGNATION.—

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

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

(i) supports a proposed rail project; or

(ii) has any jurisdiction over, or special expertise with respect to evaluation of, the rail project.

(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a “cooperating agency” under the regulations contained in part 1500 of title 40, Code of Federal Regulations.

(6) DESIGNATIONS FOR CATEGORIES OF RAIL PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a rail project, class of rail projects, or program of rail projects.

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

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

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

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

(e) PURPOSE AND NEED.—

(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a rail project.

(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the rail project’s purpose and need for purposes of any document which the lead agency is responsible for preparing for the rail project.

(3) **OBJECTIVES.**—*The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—*

(A) *achieving a transportation objective identified in an applicable rail or transportation plan;*

(B) *supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans;*

(C) *servicing national defense, national security, or other national objectives, as established in Federal laws, plans, or policies; and*

(D) *servicing the purpose for which the applicable grant, contract, loan, or other financing program was established.*

(4) **ALTERNATIVES ANALYSIS.**—

(A) **PARTICIPATION.**—*As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a rail project.*

(B) **RANGE OF ALTERNATIVES.**—

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

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

(I) *in any prior State or Federal environmental document with regard to the applicable transportation or rail plan or program; or*

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

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

(C) **METHODOLOGIES.**—

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

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

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

(D) **PREFERRED ALTERNATIVE.**—*At the discretion of the lead agency, the preferred alternative for a rail project,*

after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

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

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

- (I) a rail transportation plan or program;*
- (II) a prior environmental document approved by the Secretary; or*
- (III) a prior State environmental document approved pursuant to a State law that is substantially equivalent to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).*

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

(5) EFFECTIVE DECISIONMAKING.—

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

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

(f) COORDINATION AND SCHEDULING.—

(1) COORDINATION PLAN.—

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

(B) SCHEDULE.—

(i) IN GENERAL.—The lead agency may establish as part of the coordination plan, after consultation with each participating agency for the rail project and with

each State in which the rail project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the rail project.

(ii) **FACTORS FOR CONSIDERATION.**—In establishing the schedule, the lead agency shall consider factors such as—

(I) the responsibilities of participating agencies under applicable laws;

(II) resources available to the cooperating agencies;

(III) overall size and complexity of the rail project;

(IV) the overall schedule for and cost of the rail project; and

(V) the sensitivity of the natural and historic resources that could be affected by the rail project.

(C) **CONSISTENCY WITH OTHER TIME PERIODS.**—A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under Federal law.

(D) **MODIFICATION.**—The lead agency may—

(i) lengthen a schedule established under subparagraph (B) for good cause; and

(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

(E) **DISSEMINATION.**—A copy of a schedule established under subparagraph (B), and of any modifications to the schedule, shall be—

(i) provided to all participating agencies and to the State transportation department of each State in which the rail project is located (and, if the State is not the project sponsor, to the project sponsor); and

(ii) made available to the public.

(2) **COMMENT DEADLINES.**—The lead agency shall establish the following deadlines for comment during the environmental review process for a rail project:

(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—

(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—

(A) PRIOR APPROVAL DEADLINE.—If a participating agency is required to make a determination regarding or otherwise approve or disapprove the rail project prior to the record of decision or finding of no significant impact of the lead agency, such participating agency shall make such determination or approval no later than 30 days after the lead agency publishes notice of the availability of a final environmental impact statement or other final environmental document, or no later than such other date that is otherwise required by law, whichever occurs first.

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

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

(D) JUDICIAL REVIEW.—

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

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

(g) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the rail project under applicable laws.

(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the rail project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern

regarding the rail project's potential environmental or socio-economic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the rail project.

(4) *ISSUE RESOLUTION.*—

(A) *MEETING OF PARTICIPATING AGENCIES.*—At any time upon request of a project sponsor or the Governor of a State in which the rail project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting was requested by the Governor) to resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the rail project under applicable laws.

(B) *NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.*—If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all participating agencies, the project sponsor, the Governor, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality, and shall publish such notification in the Federal Register.

(C) *RESOLUTION FINAL.*—

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

(ii) *COMPLIANCE WITH APPLICABLE LAW.*—Any such resolution shall be deemed to comply with applicable law notwithstanding that the agencies agreed to such resolution prior to the approval of the environmental document.

(h) *STREAMLINED DOCUMENTATION AND DECISIONMAKING.*—

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

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

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

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

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

(3) *TIMING OF DECISION.*—Notwithstanding any other provision of law, in conducting the environmental review process for a rail project, the lead agency shall combine a final environ-

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mental impact statement and a record of decision for the rail project into a single document if—

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

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

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

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

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

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

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

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

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

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

(j) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review processes.

(k) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

(1) IN GENERAL.—For a rail project that is subject to the environmental review process established under this section and for which funds are made available to a State under funding programs administered by the Federal Railroad Administration, the Secretary may approve a request by the State to provide such funds to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the rail projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds

may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation or rail project planning and delivery for rail projects in that State.

(2) *ACTIVITIES ELIGIBLE FOR FUNDING.*—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

(3) *AMOUNTS.*—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

(4) *CONDITION.*—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

(l) *REGULATIONS.*—

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

(A) implement this section; and

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

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

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

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

(m) *LIMITATIONS ON CLAIMS.*—

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

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