

A Bill

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

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

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

4 (a) SHORT TITLE.--This Act may be cited as the "Safe, Accountable, Flexible,
5 and Efficient Transportation Equity Act of 2003".

6 (b) TABLE OF CONTENTS.--The table of contents of this Act is as follows:

7 Sec. 1. Short title; Table of Contents.

8 Sec. 2. Definitions.

9 **TITLE I--FEDERAL-AID HIGHWAYS**

10 Subtitle A--Funding

11 Sec. 1101. Authorization of Appropriations.

12 Sec. 1102. Obligation Ceiling.

13 Sec. 1103. Apportionments.

14 Sec. 1104. Minimum Guarantee.

15 Sec. 1105. Revenue Aligned Budget Authority.

16 Subtitle B--New Programs

17 Sec. 1201. Infrastructure Performance and Maintenance Program.

18 Sec. 1202. Clarify Federal-aid Eligibility for Certain Security Projects.

19 Sec. 1203. Future of the Interstate Highway System.

20 Sec. 1204. Military Vehicle Access (Oversize and Overweight Vehicles;
21 Relief From Tolls).

22 Sec. 1205. Freight Transportation Gateways; Freight Intermodal Connections.

23 Sec. 1206. Authority for Alternative Time-Saving Procedures for
24 Critical Transportation Security Projects.

25 Subtitle C--Finance

26 Sec. 1301. Federal Share.

27 Sec. 1302. Transfer of Highway and Transit Funds.

28 Sec. 1303. State Infrastructure Bank Pilot Program.

- 1 Sec. 1304. Transportation Infrastructure Finance and Innovation Act
- 2 (TIFIA) Amendments.
- 3 Sec. 1305. International Registration Plan And International Fuel
- 4 Tax Agreement Facilitation.
- 5 Sec. 1306. Commercialized Rest Area Pilot Projects.
- 6 Sec. 1307. Highway Use Tax Evasion Projects.

7 Subtitle D--Program Efficiencies and Improvements - Safety

- 8 Sec. 1401. National Highway Safety Goal; National Blue Ribbon Commission
- 9 on Highway Safety.
- 10 Sec. 1402. Highway Safety Improvement Program.
- 11 Sec. 1403. Operation Lifesaver.
- 12 Sec. 1404. Highway Safety Programs; Certification of Public Road Mileage.

13 Subtitle E--Program Efficiencies and Improvements - Planning

- 14 Sec. 1501. Metropolitan Planning.
- 15 Sec. 1502. Statewide Planning.
- 16 Sec. 1503. State Planning and Research.
- 17 Sec. 1504. Critical Real Property Acquisition.
- 18 Sec. 1505. Planning Capacity Building Initiative.

19 Subtitle F--Program Efficiencies and Improvements--Environment

- 20 Sec. 1601. Congestion Mitigation and Air Quality Improvement Program.
- 21 Sec. 1602. Efficient Environmental Reviews for Project Decisionmaking.
- 22 Sec. 1603. Assumption of Responsibility for Categorical Exclusions.
- 23 Sec. 1604. Section 4(f) Policy on Lands, Wildlife and Waterfowl Refuges,
- 24 And Historic Sites.
- 25 Sec. 1605. National Scenic Byways Program.
- 26 Sec. 1606. Recreational Trails Program.
- 27 Sec. 1607. Exemption of the Interstate System.
- 28 Sec. 1608. Modifications to NHS/STP for Invasive Species, Wetlands,
- 29 Brownfields, and Environmental Restoration.
- 30 Sec. 1609. Standards.
- 31 Sec. 1610. Use of HOV Lanes.
- 32 Sec. 1611. Bicycle Transportation and Pedestrian Walkways.
- 33 Sec. 1612. Transportation, Energy, and Environment.
- 34 Sec. 1613. Idling Reduction Facilities in Interstate Rights-of-Way.
- 35 Sec. 1614. Appropriation for Transportation Purposes of Lands or
- 36 Interest in Lands Owned by the United States.
- 37 Sec. 1615. Toll Programs.
- 38 Sec. 1616. Ozone Standards, Particulate Matter Standards, And Regional
- 39 Haze Program.

1 Sec. 1617. Indemnification on Certain Railbanked Projects.

2 Subtitle G. Program Efficiencies and Improvements – Operations

3 Sec. 1701. Transportation Systems Management and Operations.

4 Sec. 1702. Real-Time System Management Information Program.

5 Sec. 1703. Intelligent Transportation Systems Performance Incentive
6 Program.

7 Sec. 1704. Commercial Vehicle Information Systems and Networks
8 Deployment.

9 Subtitle H--Program Efficiencies and Improvements – Federal-Aid Stewardship

10 Sec. 1801. Surface Transportation System Performance Pilot Program.

11 Sec. 1802. Stewardship and Oversight.

12 Sec. 1803. Emergency relief.

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14 Sec. 1805. Appalachian Development Highway System.

15 Sec. 1806. Multi-State Corridor Planning Program.

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17 Sec. 1808. Territorial Highway Program Amendments.

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19 Sec. 1810. Donations and Credits.

20 Sec. 1811. Disadvantaged Business Enterprises.

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31 Sec. 1902. Clarification of Date.

32 Sec. 1903. Inclusion of Requirements for Signs Identifying
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34 Sec. 1904. Inclusion of "Buy America" Requirements in title 23.

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36 Sec. 1906. Federal Share Payable for Projects for Elimination of
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- 3 Sec. 2002. Highway Safety Research And Development.
- 4 Sec. 2003. Emergency Medical Services.
- 5 Sec. 2004. State Traffic Safety Information System Improvements.
- 6 Sec. 2005. Authorization of Appropriations.
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- 27 Sec. 4013. Pattern of Safety Violations by Motor Carrier Management.
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- 23 Sec. 5507. Definitions.
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- 27 Sec. 6001. Transportation Planning.
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- 7 Sec. 7302. Representations and Tampering with Hazardous Material
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20 Subtitle D--Sanitary Food Transportation

- 21 Sec. 7401. Short Title.
- 22 Sec. 7402. Responsibilities of the Secretary of Health and Human Services.
- 23 Sec. 7403. Department of Transportation Requirements.
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25 Subtitle E--Sport Fishing and Boating Safety

- 26 Sec. 7501. Sport Fish Restoration Account Amendments.

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28 **TITLE VIII-- TRANSPORTATION DISCRETIONARY SPENDING**

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- 31 Sec. 8101. Discretionary Spending Categories.
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9 Fish Restoration Account.
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12 Fuel Tax Exemption of Bulk Transfers to Registered Terminals
13 or Refineries; Display of Registration Requirement.
14 Sec. 9010. Returns Filed Electronically.
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17 Payments of Highway Use Tax.
18 Sec. 9013. Additional Rules Regarding Inspections of Records.

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20 **SEC. 2. DEFINITIONS.**

21 In this Act, the following definitions apply:

22 (1) METROPOLITAN PLANNING ORGANIZATION.--The term "metropolitan
23 planning organization" has the meaning such term has under section 5203(b) of title 49,
24 United States Code, as added by section 6001 of this Act.

25 (2) SECRETARY.--The term "Secretary" means the Secretary of Transportation.

26 (3) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.--The term
27 "Transportation Equity Act for the 21st Century" means the Transportation Equity Act for
28 the 21st Century, Public Law 105-178, as amended by the TEA 21 Restoration Act, title
29 IX of Public Law 105-206.

30
31 **TITLE I--FEDERAL-AID HIGHWAYS**

32
33 **Subtitle A--Funding**

34
35 **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

36 (a) IN GENERAL.—The following sums are authorized to be appropriated out

1 of the Highway Trust Fund (other than the Mass Transit Account):

2 (1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate
3 maintenance program under section 119 of title 23, United States Code,
4 \$4,100,000,000 for fiscal years 2004 and 2005, \$4,200,000,000 for fiscal year
5 2006, \$4,400,000,000 for fiscal year 2007, \$4,500,000,000 for fiscal year 2008,
6 and \$4,700,000,000 for fiscal year 2009.

7 (2) NATIONAL HIGHWAY SYSTEM.—For the National Highway
8 System under section 103 of such title \$5,000,000,000 for fiscal years 2004 and
9 2005, \$5,100,000,000 for fiscal year 2006, \$5,200,000,000 for fiscal year 2007,
10 \$5,400,000,000 for fiscal year 2008, and \$5,500,000,000 for fiscal year 2009.

11 (3) BRIDGE PROGRAM.—For the bridge program under section 144 of
12 such title \$3,400,000,000 for fiscal year 2004, \$3,500,000,000 for fiscal year
13 2005, \$3,700,000,000 for fiscal year 2006, \$3,800,000,000 for fiscal year 2007,
14 \$3,900,000,000 for fiscal year 2008, and \$4,000,000,000 for fiscal year 2009.

15 (4) SURFACE TRANSPORTATION PROGRAM.—For the surface
16 transportation program under section 133 of such title \$5,102,000,000 for fiscal
17 year 2004, \$5,202,000,000 for fiscal year 2005, \$5,402,000,000 for fiscal year
18 2006, \$5,514,000,000 for fiscal year 2007, \$5,714,000,000 for fiscal year 2008,
19 and \$5,807,000,000 for fiscal year 2009.

20 (5) CONGESTION MITIGATION AND AIR QUALITY
21 IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality
22 improvement program under section 149 of such title \$1,100,000,000 for fiscal
23 year 2004, \$1,462,000,000 for fiscal year 2005, \$1,500,000,000 for fiscal year
24 2006, \$1,600,000,000 for fiscal years 2007 through 2009.

25 (6) HIGHWAY SAFETY IMPROVEMENT PROGRAM. – For the
26 highway safety improvement program under section 150 of such title
27 \$1,000,000,000 for fiscal year 2004, \$1,100,000,000 for fiscal year 2005,
28 \$1,200,000,000 for fiscal year 2006, \$1,300,000,000 for fiscal year 2007,
29 \$1,400,000,000 for fiscal year 2008, and \$1,500,000,000 for fiscal year 2009.

30 (7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM
31 PROGRAM.—For the Appalachian development highway system program under

1 section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C.
2 App.) \$450,000,000 for each of fiscal years 2004 through 2009.

3 (8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails
4 program under section 206 of such title \$60,000,000 for each of fiscal years 2004
5 through 2009.

6 (9) FEDERAL LANDS HIGHWAYS PROGRAM.—

7 (A) INDIAN RESERVATION ROADS.—For Indian reservation
8 roads under section 204 of such title \$333,000,000 for each of fiscal years
9 2004 through 2009.

10 (B) RECREATION ROADS.—For recreation roads under section
11 204 of such title \$50,000,000 for each of fiscal years 2004 through 2009.

12 (C) PARK ROADS AND PARKWAYS.—For park roads and
13 parkways under section 204 of such title, \$300,000,000 for fiscal year
14 2004, \$310,000,000 for fiscal year 2005, and \$320,000,000 for each of
15 fiscal years 2006 through 2009.

16 (D) REFUGE ROADS.—For refuge roads under section 204 of
17 such title \$30,000,000 for each of fiscal years 2004 through 2009.

18 (E) FOREST HIGHWAYS. – For forest highways under section
19 204 of such title \$200,000,000 for each of fiscal years 2004 through 2009.

20 (F) SAFETY. – For safety under section 204 of such title
21 \$40,000,000 for each of fiscal years 2004 through 2009.

22 (10) MULTI-STATE CORRIDOR PLANNING PROGRAM.—For the
23 multi-state corridor planning program under section 1806 of this Act \$76,500,000
24 for fiscal year 2004 and \$84,000,000 for each of fiscal years 2005 through 2009.

25 (11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY
26 PROGRAM.—For the border planning, operations, and technology program
27 under section 1807 of this Act \$76,500,000 for fiscal year 2004 and \$84,000,000
28 for each of fiscal years 2005 through 2009.

29 (12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national
30 scenic byways program under section 162 of title 23, United States Code,
31 \$31,500,000 for each of fiscal years 2004 through 2009.

1 (13) INTELLIGENT TRANSPORTATION SYSTEMS
2 PERFORMANCE INCENTIVE PROGRAM.--For carrying out the intelligent
3 transportation systems performance incentive program under section 1703 of this
4 Act, \$135,000,000 for each of fiscal years 2004 through 2009.

5 (14) HIGHWAY USE TAX EVASION PROJECTS—For highway use
6 tax evasion projects under section 143 of such title, \$26,550,000 for fiscal year
7 2004, \$54,500,000 for each of fiscal years 2005 and 2006, \$44,500,000 for fiscal
8 year 2007, and \$11,000,000 for each of fiscal years 2008 and 2009.

9 (15) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND
10 NETWORKS DEPLOYMENT.--For carrying out the Commercial Vehicle
11 Information Systems and Networks Deployment program under section 1704 of
12 this Act, \$25,000,000 for each of fiscal years 2004 through 2009.

13 (16) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE
14 PROGRAM.--For carrying out the infrastructure performance and maintenance
15 program under section 1201 of this Act, \$1,000,000,000 for each of fiscal years
16 2004 through 2009.

17 **SEC. 1102. OBLIGATION CEILING.**

18 (a) GENERAL LIMITATION.--Notwithstanding any other provision of law, but
19 subject to subsections (f) and (g),the obligations for Federal-aid highway and highway
20 safety construction programs shall not exceed—

- 21 (1) \$29,293,948,000 for fiscal year 2004;
- 22 (2) \$30,265,000,000 for fiscal year 2005;
- 23 (3) \$31,326,000,000 for fiscal year 2006;
- 24 (4) \$32,257,000,000 for fiscal year 2007;
- 25 (5) \$33,104,000,000 for fiscal year 2008; and
- 26 (6) \$33,903,000,000 for fiscal year 2009.

27 (b) EXCEPTIONS.--The limitations under subsection (a) shall not apply to
28 obligations under--

- 29 (1) section 125 of title 23, United States Code;
- 30 (2) section 147 of the Surface Transportation Assistance Act of 1978;
- 31 (3) section 9 of the Federal-Aid Highway Act of 1981;

1 (4) sections 131(b) and 131(j) of the Surface Transportation Assistance
2 Act of 1982;

3 (5) sections 149(b) and 149(c) of the Surface Transportation and Uniform
4 Relocation Assistance Act of 1987;

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

7 (7) section 157 of title 23, United States Code, as in effect on the day
8 before the date of enactment of the Transportation Equity Act for the 21st
9 Century;

10 (8) section 105 of title 23, United States Code (but, for each of fiscal years
11 2004 through 2009), only in an amount equal to \$639,000,000 per fiscal year;
12 and

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

17 (c) DISTRIBUTION OF OBLIGATION AUTHORITY.--For each of fiscal years
18 2004 through 2009, the Secretary shall—

19 (1) reserve obligation authority provided by subsection (a) for such fiscal
20 year for amounts authorized for administrative expenses, programs funded from
21 the administrative takedown authorized by section 104(a) of title 23, United States
22 Code, the infrastructure performance and maintenance program, and for each of
23 the programs that are allocated by the Secretary under this Act and title 23, United
24 States Code;

25 (2) reserve the obligation authority provided by subsection (a) less the
26 amounts reserved under paragraph (1) for section 201 of the Appalachian
27 Regional Development Act of 1965, and \$2,000,000,000 for such fiscal year
28 under section 105 of such title (relating to minimum guarantee); and

29 (3) distribute the obligation authority provided by subsection (a) less the
30 aggregate amounts not reserved under paragraph (1) and (2) for Federal-aid
31 highway and highway safety construction programs (other than the minimum

1 guarantee program, but only to the extent that amounts apportioned for the
2 minimum guarantee program for such fiscal year exceed \$2,639,000,000, and the
3 Appalachian development highway system program) that are apportioned by the
4 Secretary under this Act and title 23, United States Code, in the ratio that—

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

7 (B) the total of the sums authorized to be appropriated for such
8 programs that are apportioned to all States for such fiscal year.

9 (d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.--

10 Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years
11 2004 through 2009, revise a distribution of the obligation authority made available under
12 subsection (c) if a State will not obligate the amount distributed during that fiscal year
13 and redistribute sufficient amounts to those States able to obligate amounts in addition to
14 those previously distributed during that fiscal year, giving priority to those States having
15 large unobligated balances of funds apportioned under sections 104 and 144 of title 23,
16 United States Code.

17 (e) APPLICABILITY OF OBLIGATION LIMITATIONS TO
18 TRANSPORTATION RESEARCH PROGRAMS.--Obligation limitations imposed by
19 subsection (a) shall apply to transportation research programs carried out under chapter 5
20 of title 23, United States Code, and under title V of this Act; except that obligation
21 authority made available for such programs under such limitations shall remain available
22 for a period of 3 fiscal years and shall be in addition to the amount of any limitation
23 imposed on obligations for Federal-aid highway and highway safety construction
24 programs for future fiscal years.

25 (f) SPECIAL RULE.--Obligation authority distributed for a fiscal year under
26 subsection (c)(2) for a section set forth in subsection (c)(2) shall remain available until
27 used for obligation of funds for such section and shall be in addition to the amount of any
28 limitation imposed on obligations for Federal-aid highway and highway safety
29 construction programs for future fiscal years.

30 (g) ADJUSTMENT IN OBLIGATION LIMIT.--Limitations on obligations
31 imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the

1 amount determined pursuant to section 251(b)(1)(B) of the Balanced Budget and
2 Emergency Deficit Control Act of 1985 for such fiscal year, as amended by this Act. Any
3 such adjustment shall be distributed in accordance with this section.

4 (h) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE
5 EXPENSES.--Notwithstanding any other provision of law, the total amount of all
6 obligations under section 104(a) of title 23, United States Code, shall not exceed--

7 (1) \$350,000,000 for fiscal year 2004;

8 (2) \$380,000,000 for fiscal year 2005;

9 (3) \$400,000,000 for fiscal year 2006;

10 (4) \$420,000,000 for fiscal year 2007;

11 (5) \$440,000,000 for fiscal year 2008; and

12 (6) \$460,000,000 for fiscal year 2009.

13 **SEC. 1103. APPORTIONMENTS.**

14 (a) ADMINISTRATIVE EXPENSES.--Section 104(a) of title 23, United States
15 Code, as amended by this Act, is further amended in paragraph (1) by striking "1 1/6" and
16 inserting "1.4".

17 (b) METROPOLITAN PLANNING.--Section 104(f) of title 23, United States
18 Code, is amended:

19 (1) in paragraph (1), by striking "not to exceed"; and by striking
20 "authorized under this title" and inserting "identified in such subsection, except
21 for the Federal lands highway program and the Appalachian development
22 highway program";

23 (2) in paragraph (2), by striking "per centum" and inserting "percent";

24 (3) in paragraph (3), by striking "These funds shall be matched in
25 accordance with section 120(b) unless the Secretary determines that the interests
26 of the Federal-aid highway program would be best served without such
27 matching." and inserting "Any funds that are not used to carry out section 134 of
28 this title may be made available by a metropolitan planning organization to the
29 State to fund activities under section 135."; and

30 (4) by adding the following after paragraph (5):

1 “(6) FEDERAL SHARE.—Funds apportioned to a State under this
2 subsection shall be matched in accordance with section 120(b) unless the
3 Secretary determines that the interests of the Federal-aid highway program would
4 be best served without such matching.”.

5 (c) STATE DEFINED.—Section 1103(n) of the Transportation Equity Act for
6 the 21st Century (Public Law 105-178) is repealed.

7 (d) EXECUTIVE OFFICE COMPLEX.--Section 104 of title 23, United States
8 Code, is amended by adding after subsection (q), as added by this Act, the following:

9 “(r) EXECUTIVE OFFICE COMPLEX.--On October 1 of each fiscal year for
10 fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by
11 subsections (a) and (f), shall set aside \$2,000,000 for each of fiscal years 2004 through
12 2006, \$14,000,000 for each of fiscal years 2007 and 2008, and \$7,000,000 for fiscal year
13 2009 of the remaining funds authorized to be appropriated under subsection (b)(3) for the
14 preferred option determined by a study for highway access near the Executive Office
15 complex.”.

16 (e) ALASKA HIGHWAY.--Section 104(b)(1)(A) of title 23, United States Code,
17 is amended by striking “\$18,800,000 for each of fiscal years 1998 through 2002 for the
18 Alaska Highway” and substituting “\$18,800,000 for each of fiscal years 2004 through
19 2009 for the Alaska Highway”.

20 **SEC. 1104. MINIMUM GUARANTEE.**

21 Section 105 of title 23, United States Code, is amended to read as follows:

22 **“§ 105. Minimum guarantee**

23 “(a) GENERAL RULE.--For each of fiscal years 2004 through 2009, the
24 Secretary shall allocate among the States amounts sufficient to ensure that each State's
25 percentage of the total apportionments for such fiscal year of Interstate maintenance,
26 national highway system, bridge, congestion mitigation and air quality improvement,
27 surface transportation, highway safety improvement, minimum guarantee, Appalachian
28 development highway system, infrastructure performance and maintenance, and
29 recreational trails programs shall equal the percentage listed for each State in subsection
30 (b). The minimum amount allocated to a State listed in subsection (b) under this section
31 for a fiscal year shall be \$1,000,000.

1 "(b) STATE PERCENTAGES.--The percentage referred to in subsection (a) for a
2 State shall be determined in accordance with the following table:

3

4 "States	Percentage
5 Alabama.....	2.0269
6 Alaska.....	1.1915
7 Arizona.....	1.5581
8 Arkansas.....	1.3214
9 California.....	9.1962
10 Colorado.....	1.1673
11 Connecticut.....	1.5186
12 Delaware.....	0.4424
13 District of Columbia.....	0.3956
14 Florida.....	4.6176
15 Georgia.....	3.5104
16 Hawaii.....	0.5177
17 Idaho.....	0.7718
18 Illinois.....	3.3819
19 Indiana.....	2.3588
20 Iowa.....	1.2020
21 Kansas.....	1.1717
22 Kentucky.....	1.7365
23 Louisiana.....	1.5900
24 Maine.....	0.5263
25 Maryland.....	1.5087
26 Massachusetts.....	1.8638
27 Michigan.....	3.1535
28 Minnesota.....	1.4993
29 Mississippi.....	1.2186
30 Missouri.....	2.3615
31 Montana.....	0.9929

1	Nebraska.....	0.7768
2	Nevada.....	0.7248
3	New Hampshire.....	0.5163
4	New Jersey.....	2.5816
5	New Mexico.....	0.9884
6	New York.....	5.1628
7	North Carolina.....	2.8298
8	North Dakota.....	0.6553
9	Ohio.....	3.4257
10	Oklahoma.....	1.5419
11	Oregon.....	1.2183
12	Pennsylvania.....	4.9887
13	Rhode Island.....	0.5958
14	South Carolina.....	1.5910
15	South Dakota.....	0.7149
16	Tennessee.....	2.2646
17	Texas.....	7.2131
18	Utah.....	0.7831
19	Vermont.....	0.4573
20	Virginia.....	2.5627
21	Washington.....	1.7875
22	West Virginia.....	1.1319
23	Wisconsin.....	1.9916
24	Wyoming.....	0.6951

25

26 “(c) SPECIAL RULE.--The Secretary shall allocate to Puerto Rico \$1,000,000 for
27 each of fiscal years 2004 through 2009. Such amounts shall be subject to the provisions
28 in paragraph (d) of this section.

29 “(d) TREATMENT OF FUNDS.--

30 “(1) PROGRAMMATIC DISTRIBUTION.--The Secretary shall apportion
31 50 percent of the amounts made available under this section so that the amount

1 apportioned to each State under this paragraph for each program referred to in
2 subsection (a) (other than metropolitan planning, minimum guarantee,
3 Appalachian development highway system, infrastructure performance and
4 maintenance, and recreational trails programs) is equal to the amount determined
5 by multiplying the amount to be apportioned under this paragraph by the ratio
6 that--

7 “(A) the amount of funds apportioned to each State for each
8 program referred to in subsection (a) (other than metropolitan planning,
9 minimum guarantee, Appalachian development highway system,
10 infrastructure performance and maintenance, and recreational trails
11 programs) for a fiscal year; bears to

12 “(B) the total amount of funds apportioned to each State for all
13 such programs for such fiscal year.

14 “(2) REMAINING DISTRIBUTION.--The Secretary shall allocate the
15 remainder of funds made available under this section to the States for use in
16 accordance with section 133; except that requirements of paragraphs (1) and (2)
17 of section 133(d) shall not apply to amounts apportioned pursuant to this
18 paragraph.

19 “(e) AUTHORIZATION.--There are authorized to be appropriated out of the
20 Highway Trust Fund (other than the Mass Transit Account) such sums as may be
21 necessary to carry out this section for each of fiscal years 2004 through 2009.

22 “(f) GUARANTEE OF 90.5 PERCENTAGE RETURN.—

23 “(1) IN GENERAL.--Before making any apportionment under this title for
24 each of fiscal years 2004 through 2009, the Secretary shall adjust the percentages
25 in the table in subsection (b) to reflect the estimated percentage of estimated tax
26 payments attributable to highway users in each State paid into the Highway Trust
27 Fund (other than the Mass Transit Account) in the latest fiscal year for which data
28 is available, to ensure that no State's percentage return from such Trust Fund is
29 less than 90.5 percent of the State's percentage contribution.

30 “(2) CONFORMING ADJUSTMENTS.--After making any adjustments
31 under paragraph (1) for a fiscal year, the Secretary shall adjust the remaining

1 percentages in the table set forth in subsection (b) to ensure that the total of the
2 percentages in the table, as adjusted, do not exceed 100 percent for such fiscal
3 year.

4 "(3) LIMITATION ON ADJUSTMENTS.--After making any adjustments
5 under paragraph (2) for a fiscal year, the Secretary shall determine whether or not
6 any State's percentage return from the Highway Trust Fund (other than the Mass
7 Transit Account) is less than 90.5 percent of the State's percentage contribution to
8 the Highway Trust fund as a result of such adjustments and shall adjust the
9 percentages in the table for such fiscal year accordingly. Adjustments of the
10 percentages in the table under this paragraph may not result in the total of such
11 percentages exceeding 100 percent.

12 "(4) RATE OF RETURN.--A State's percentage return for such fiscal year
13 shall be in the ratio that--

14 "(A) the quotient obtained by dividing the total amount of funds
15 apportioned to each State, except Puerto Rico, for the current fiscal year
16 for Interstate maintenance, national highway system, bridge, congestion
17 mitigation and air quality improvement, surface transportation, minimum
18 guarantee, highway safety improvement, Appalachian development
19 highway system, infrastructure performance and maintenance, and
20 recreational trails programs by the total amount of funds apportioned for
21 such programs in all States, except Puerto Rico, for the current fiscal year;
22 bears to

23 "(B) the quotient obtained by dividing the estimated tax payments
24 attributable to highway users in each State paid into the Highway Trust
25 Fund (other than the Mass Transit Account) in the latest fiscal year for
26 which data are available by the estimated tax payments attributable to
27 highway users in all States paid into the Highway Trust Fund (other than
28 the Mass Transit Account) for such fiscal year.".

29 **SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY (RABA)**

30 **AMENDMENTS.**

31 Section 110 of title 23, United States Code, is amended--

1 (1) in subsections (a)(1) and (a)(2), by striking "2000" and inserting
2 "2006";

3 (2) in subsection (a)(2), by striking "the succeeding" and inserting "that",
4 and by striking "and the motor carrier safety grant program";

5 (3) in subsection (b)(1)(A), by striking "and the motor carrier safety grant
6 program" and by striking ", the Transportation Equity Act for the 21st Century,
7 and subchapter I of chapter 311 of title 49" after "under this title" and insert "and
8 the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of
9 2003";

10 (4) in subsection (c), by inserting "the highway safety improvement
11 program," after "the surface transportation program,"; and

12 (5) by striking subsections (e), (f), and (g).

13
14 **Subtitle B--New Programs**

15
16 **SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE**
17 **PROGRAM.**

18 (a) ESTABLISHMENT.--The Secretary shall establish and implement an
19 Infrastructure Performance and Maintenance Program in accordance with this section.

20 (b) ELIGIBLE PROJECTS.--

21 (1) IN GENERAL.--A State may obligate funds apportioned to it under
22 this section only for highway projects eligible under the Interstate Maintenance
23 Program, the National Highway System Program, and the Surface Transportation
24 Program that will--

25 (A) cost-effectively preserve, maintain, or otherwise extend the
26 useful life of existing highway infrastructure elements; or

27 (B) provide operational improvements, including traffic
28 management and intelligent transportation system strategies and limited
29 capacity enhancements, at points of recurring highway congestion.

1 (2) TRANSFER PROHIBITION.--Notwithstanding sections 104 and 126
2 of title 23, United States Code, funds apportioned under this section shall not be
3 transferred to another Federal agency or program.

4 (c) APPORTIONMENT OF INFRASTRUCTURE PERFORMANCE AND
5 MAINTENANCE PROGRAM FUNDS.--

6 (1) IN GENERAL.-- On October 1 of each fiscal year the Secretary shall
7 apportion to the States the funds authorized to be appropriated to carry out this
8 section in accordance with the following formula:

9 (A) 25 percent of the apportionments in the ratio that--

10 (i) the total lane miles of Federal-aid highways in each
11 State; bears to

12 (ii) the total lane miles of Federal-aid highways in all
13 States.

14 (B) 40 percent of the apportionments in the ratio that--

15 (i) the total vehicle miles traveled on lanes on Federal-aid
16 highways in each State; bears to

17 (ii) the total vehicle miles traveled on lanes on Federal-aid
18 highways in all States.

19 (C) 35 percent of the apportionments in the ratio that--

20 (i) the estimated tax payments attributable to highway users
21 in each State paid into the Highway Trust Fund (other than the
22 Mass Transit Account) in the latest fiscal year for which data are
23 available; bears to

24 (ii) the estimated tax payments attributable to highway
25 users in all States paid into the Highway Trust Fund (other than the
26 Mass Transit Account) in the latest fiscal year for which data are
27 available.

28 (2) MINIMUM APPORTIONMENT.--Notwithstanding paragraph (1),
29 each State shall receive a minimum of 1/2 of 1 percent of the funds apportioned
30 under this paragraph.

1 (d) CONTRACT AUTHORITY.--Funds authorized to be appropriated under
2 section 1101(a)(16) of this Act to carry out this section shall be available for obligation in
3 the same manner as if such funds were apportioned under chapter 1 of title 23, United
4 States Code, except that such funds shall remain available for obligation only as provided
5 in subsection (e); shall not be subject to any deduction or set aside requirement; and shall
6 not be transferred to another Federal agency or program in accordance with subsection
7 (b)(2).

8 (e) PERIOD OF AVAILABILITY.--

9 (1) OBLIGATION WITHIN 6 MONTHS.--Funds apportioned to a State
10 under this section must be obligated by such State within 6 months of the date of
11 apportionment. Any amounts that remain unobligated at the end of that period
12 shall be reapportioned in accordance with subsection (f).

13 (2) ONE YEAR.--All funds apportioned or reapportioned under this
14 section shall remain available for obligation until the last day of the fiscal year in
15 which they are apportioned. Any amounts apportioned that remain unobligated at
16 the end of the fiscal year shall lapse.

17 (f) REDISTRIBUTION OF APPORTIONED FUNDS AND OBLIGATION
18 AUTHORITY.--Six months after the date of apportionment or as soon thereafter as
19 feasible in each fiscal year, the Secretary shall withdraw any funds apportioned to a State
20 under this section that remain unobligated, along with an equal amount of obligation
21 authority provided for the use of such funds pursuant to section 1102(c) of this Act, and
22 shall reapportion such funds and redistribute such obligation authority to those States that
23 have fully obligated all amounts apportioned under this section in such fiscal year and
24 that demonstrate they are able to obligate additional amounts for projects eligible under
25 this section before the end of the fiscal year. The calculation and distribution of funds
26 under section 105 of title 23, United States Code, shall not be adjusted as a result of the
27 reapportionment of funds under this subsection.

28 (g) FEDERAL SHARE PAYABLE.--The Federal share payable for a project
29 funded under this section shall be determined in accordance with the provisions of
30 section 120 of title 23, United States Code.

1 (h) STATE DEFINED.--In this section, the term "State" has the meaning such
2 term has under section 101(a) of title 23, United States Code.

3 **SEC. 1202. CLARIFY FEDERAL-AID ELIGIBILITY FOR SECURITY**
4 **PROJECTS.**

5 Section 101 of title 23, United States Code, is amended ---

6 (1) by striking the word "and" at the end of paragraph (a)(3)(G);

7 (2) by striking the period at the end of paragraph (a)(3)(H) and inserting
8 "; and";

9 (3) by adding the following at the end of paragraph (a)(3)(H):

10 "(I) improvements directly related to homeland security for
11 detection, preparedness, prevention, response, and recovery."; and

12 (4) by inserting the words "protection and" after the words "means the"
13 and by inserting ", secure," after the word "safe" in section (a)(14).

14 **SEC. 1203. FUTURE OF THE INTERSTATE HIGHWAY SYSTEM.**

15 **DECLARATION OF POLICY.**—Section 101 of title 23, United States Code, is
16 amended by striking subsection (b) and inserting the following:

17 "(b) It is hereby declared to be in the national interest to accelerate the
18 construction and reconstruction of the Federal-aid highway systems since many of such
19 highways, or portions thereof, are in fact inadequate to meet the needs of local and
20 interstate commerce and national and civil defense.

21
22 "It is further declared that it is in the national interest to preserve and enhance the
23 Dwight D. Eisenhower National System of Interstate and Defense Highways (hereafter
24 referred to as the "Interstate System") to meet the nation's needs for the 21st Century.
25 Urban and long distance personal travel and freight movement demands continue to
26 grow. Travel demand patterns will remain dynamic. Continued planning for and
27 investment in the Interstate System is critical to assure it adequately meets the changing
28 travel demands of the future. The Interstate System must be safe, efficient, and reliable
29 and must ensure national and interregional personal mobility, the flow of interstate
30 commerce, and travel movements essential for national security. To the maximum extent
31 possible, actions under this title should address congestion and freight transportation to

1 provide for a strong and vigorous national economy. Special emphasis should be devoted
2 to providing safe and efficient access for the type and size of commercial and military
3 vehicles that access designated National Highway System intermodal freight terminals.
4

5 "The Interstate System is further declared to be the nation's premiere highway
6 system, essential for the nation's economic vitality, national security, and general
7 welfare. The Secretary is directed to take appropriate actions to preserve and enhance the
8 Interstate System to meet the needs of the 21st Century."

9 **SEC. 1204. MILITARY VEHICLE ACCESS (OVERSIZE AND OVERWEIGHT**
10 **VEHICLES; RELIEF FROM TOLLS).**

11 (a) PROCEDURES ON MILITARY VEHICLE ACCESS.--The Secretary of
12 Transportation is authorized to issue, in consultation with the Secretary of Defense and
13 the Secretary of Homeland Security, procedures and orders that will expedite the
14 highway movement of all marked military vehicles and convoys. The procedures shall
15 specifically address the expedited movement of marked military vehicles, including the
16 establishment of temporary vehicle size and weight limits in excess of Federal and local
17 maximum limits, expedited oversize/overweight permits, and exemptions from payment
18 of local tolls and expedited movement through toll facilities.

19 (b) PREEMPTION.--A law, regulation, order, ruling, provision, or other
20 requirement of a State, territory, Indian tribe, or political subdivision thereof,
21 which covers the vehicles and movements described in paragraph (a) and which is
22 not consistent with the procedures or related limitations established by the
23 Secretary under that paragraph, is preempted. The Secretaries of Transportation,
24 Homeland Security, and Defense, may request the Attorney General to bring a
25 civil action seeking appropriate relief respecting the effect of such laws,
26 regulations, orders, rulings, provisions or other requirements in any court of
27 competent jurisdiction. Nothing in this section shall be construed as limiting
28 claims or remedies otherwise available under law or equity.

29 (c) EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.--A
30 procedure established by the Secretary under paragraph (a) shall be exempt from
31 the provisions of 5 U.S.C. 553.

1 **SEC. 1205. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT**
2 **INTERMODAL CONNECTIONS.**

3 (a) FREIGHT TRANSPORTATION GATEWAYS.--Chapter 3 of title 23, United
4 States Code, is amended by adding after section 324 the following new section:

5 **“§ 325. Freight transportation gateways**

6 “(a) IN GENERAL.--

7 “(1) ESTABLISHMENT.--The Secretary shall establish a freight
8 transportation gateways program to improve productivity, security, and safety of
9 freight transportation gateways, while mitigating congestion and community
10 impacts in the area of such gateways.

11 “(2) PURPOSES.--The purposes of the freight transportation gateways
12 program shall be--

13 “(A) to facilitate and support multimodal freight transportation
14 initiatives at the State and local levels in order to improve freight
15 transportation gateways and mitigate the impact of congestion on the
16 environment in the area of such gateways;

17 “(B) to provide capital funding to address infrastructure and
18 freight operational needs at freight transportation gateways;

19 “(C) to encourage adoption of new financing strategies to leverage
20 State, local, and private investment in freight transportation gateways; and

21 “(D) to support military mobilization and readiness.

22 “(b) STATE RESPONSIBILITIES.--

23 “(1) PROJECT DEVELOPMENT PROCESS.--Each State
24 shall ensure that intermodal freight transportation, trade facilitation, and economic
25 development needs are adequately addressed and fully integrated into the project
26 development process, including transportation planning, through final design and
27 construction of freight related transportation projects.

28 “(2) FREIGHT TRANSPORTATION COORDINATOR POSITION.--
29 Each State shall designate a freight transportation coordinator. The coordinator
30 shall be responsible for fostering public and private sector collaboration needed to
31 implement complex solutions to freight transportation and freight transportation

1 gateway problems, including coordination of metropolitan and statewide
2 transportation activities with trade and economic interests and coordination with
3 other States, local Department of Defense officials, local Department of
4 Homeland Security officials, agencies, and organizations to find regional
5 solutions to freight transportation problems. The coordinator shall also be
6 responsible for advancing freight professional capacity building programs for the
7 State.

8 “(c) INNOVATIVE FINANCE.—States and localities are encouraged to adopt
9 innovative financing strategies for freight transportation gateway improvements,
10 including new user fees; modifications to existing user fees, including trade facilitation
11 charges; revenue options that incorporate private sector investment; and a blending of
12 Federal-aid and innovative finance programs. The Secretary shall provide technical
13 assistance to States and localities with respect to such strategies.

14 “(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.--

15 “(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.--

16 A State may obligate funds apportioned to it under section 104(b)(3) of this title
17 for publicly owned intermodal freight transportation projects that provide
18 community and highway benefits by addressing economic, congestion, security,
19 safety, and environmental issues associated with freight transportation gateways.

20 “(2) ELIGIBLE PROJECTS.--Projects eligible for funding under this
21 section--

22 “(A) may include publicly-owned intermodal freight transfer
23 facilities, access to such facilities, and operational improvements for such
24 facilities (including capital investment for Intelligent Transportation
25 Systems), except that projects located within the boundaries of port
26 terminals shall only include the transportation infrastructure modifications
27 necessary to facilitate direct intermodal access into and out of such port;
28 and

29 “(B) may involve the combining of private and public sector
30 funds.”.

1 (b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM

2 FUNDS.--Section 133(b) of title 23, United States Code, is amended by adding at the end
3 the following new paragraph:

4 "(15) Intermodal freight transportation projects in accordance with section
5 325(d)(2) of this title."

6 (c) FREIGHT INTERMODAL CONNECTIONS TO NHS.--Section 103(b) of
7 such title, is amended by adding at the end the following new paragraph:

8 "(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS---

9 "(A) FUNDING SET-ASIDE.--Of the funds apportioned to a State
10 in each fiscal year under section 104(b)(1) of this title, an amount
11 determined in accordance with subparagraph (B) of this paragraph shall
12 only be available to such State to be obligated for projects on--

13 "(i) National Highway System routes connecting to
14 intermodal freight terminals identified according to criteria set
15 forth in the report to Congress entitled "Pulling Together: The
16 National Highway System and its Connections to Major
17 Intermodal Terminals" dated May 24, 1996, referenced in
18 paragraph (1) of this subsection, and any modifications to these
19 connections consistent with paragraph (4) of this subsection, and

20 "(ii) Strategic Highway Network (STRAHNET)
21 connectors to strategic military deployment ports.

22 "(B) DETERMINATION OF AMOUNT.--The amount of funds
23 for each State in a fiscal year that shall be set aside pursuant to
24 subparagraph (A) of this paragraph shall be--

25 "(i) equal to the total amount of funds apportioned to such
26 State under section 104(b)(1) of this title multiplied by the
27 percentage of miles that routes set forth in subparagraph (A) of this
28 paragraph constitute of the total miles on the National Highway
29 System in such State, or

30 "(ii) two percent of the annual apportionment to the State
31 of funds under 104(b)(1), whichever is greater.

1 "(C) EXEMPTION FROM SET-ASIDE.--In any fiscal year, a
2 State may obligate the funds otherwise set aside by this paragraph on any
3 project which is both eligible under paragraph (6) of this subsection and
4 located in such State on a segment of the National Highway System set
5 forth in paragraph (2) of this subsection if such State certifies and the
6 Secretary concurs that--

7 "(i) the routes described in subparagraph (A) of this
8 paragraph are in good condition and provide an adequate level of
9 service for military vehicle and civilian commercial vehicle use,
10 and

11 "(ii) significant needs on such routes are being met or do
12 not exist."

13 (d) DEFINITIONS AND DECLARATION OF POLICY.--Section 101(a) of such
14 title is amended by redesignating paragraphs (11) through (37) as paragraphs (12)
15 through (38), respectively, and inserting new paragraph (11) as follows:

16 “(11) FREIGHT TRANSPORTATION GATEWAY.--The term 'freight
17 transportation gateway' means a nationally or regionally significant transportation
18 port of entry or hub for domestic and global trade, military mobilization, and
19 includes freight intermodal and Strategic Highway Network connections that
20 provide access to and from these gateways.”.

21 (e) FEDERAL SHARE PAYABLE.--Section 120 of such title is amended by
22 adding at the end the following new subsection:

23 "(m) INCREASED FEDERAL SHARE FOR CONNECTORS.--On National
24 Highway System intermodal freight connections and Strategic Highway Network
25 connectors to strategic military deployment ports described in section 103(b)(7), the
26 Federal share may be up to 90 percent of the total cost of the project."

27 (f) LENGTH LIMITATIONS.--Section 31111(e) of title 49, United States Code,
28 is amended by adding at the end "In the interests of economic competitiveness, security,
29 and intermodal connectivity, States shall update these qualifying highways within three
30 years of enactment of the Safe, Accountable, Flexible, and Efficient Transportation
31 Equity Act of 2003 to include Strategic Highway Network connectors to strategic

1 military deployment ports and National Highway System intermodal freight connections
2 serving military and commercial truck traffic going to major intermodal terminals as
3 described in section 103(b)(7).".

4 (g) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23 is
5 amended by adding at the end the following:

6 "325. Freight transportation gateways.".

7 **SEC. 1206. AUTHORITY FOR ALTERNATIVE TIME -SAVING PROCEDURES**
8 **FOR CRITICAL TRANSPORTATION SECURITY PROJECTS.**

9 (a) Critical, time sensitive highway and public transportation security projects are
10 projects that are necessary to address an imminent threat to the security of a
11 transportation facility or to repair damage to a transportation facility caused by a terrorist
12 attack against the United States. Such projects shall be identified by the Secretary in
13 consultation with the owner-operator of the facility and with the Secretary of Homeland
14 Security.

15 (b) The Secretary of Transportation shall develop and implement expedited
16 procedures for critical, time-sensitive highway and public transportation security projects.
17 These procedures shall address planning, environmental review, public involvement,
18 acquisition of rights-of-way, and contracting, and they shall be developed with the
19 concurrence of other affected Federal agencies whose authorities will be affected by the
20 procedures and in consultation with any other Federal agencies that the Secretary
21 determines have an interest in the procedures. For the limited purpose of expediting
22 interim measures needed to address an imminent threat to the security of a transportation
23 facility, the Secretary may provide that these procedures are exclusive of any other statute
24 relating to planning, environmental reviews, public involvement, acquisition of right-of-
25 way, and contracting, so long as the Secretary determines that such measures are
26 necessary for the protection of the public and receives the concurrence of any other
27 Federal agency responsible for administering such statutes. The Secretary shall issue
28 rules establishing these procedures within one year of the enactment of this law.

29
30 **Subtitle C--Finance**
31

1 **SEC. 1301. FEDERAL SHARE.**

2 Section 120 of title 23, United States Code, is amended—

3 (1) in subsection (a), by striking “shall be 90 percent” and all that follows
4 through the end of the subsection and inserting “shall not exceed 90 percent of the
5 total cost of the project.”;

6 (2) in subsection (b), by striking “shall be” and all that follows through the
7 end of the subsection and inserting “shall not exceed 80 percent of the total cost of the
8 project.”; and

9 (3) by striking subsection (d) and inserting the following:

10 “(d) INCREASED FEDERAL SHARE.--The Federal share payable under (a) and
11 (b) may be increased in the case of any State containing nontaxable Indian lands, public
12 lands (both reserved and unreserved), national forests, and national parks and
13 monuments. The Federal share for any project subject to this section shall be increased by
14 a percentage of the remaining cost equal to the percentage that the area of all such lands
15 in a State is of its total area not to exceed 95 percent of the total cost of the project. These
16 rates shall be revised as needed based on data provided by the Federal agencies
17 responsible for maintaining the data.”.

18 **SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.**

19 Section 104(m) of title 23, as redesignated by this Act, is amended to read as
20 follows:

21 “(m) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

22 “(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT
23 PROJECTS.—Funds made available for transit projects or transportation planning
24 under this title may be transferred to and administered by the Secretary in
25 accordance with chapter 53 of title 49, except that the provisions of this title
26 relating to the non-Federal share shall apply to the transferred funds.

27 “(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY
28 PROJECTS.—Funds made available for highway projects or transportation
29 planning under chapter 53 of title 49 may be transferred to and administered by
30 the Secretary in accordance with this title, except that the provisions of such
31 chapter relating to the non-Federal share shall apply to the transferred funds.

1 “(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL
2 AGENCIES.—Except as provided in paragraphs (1) and (2), when an expenditure
3 is specifically authorized in Federal-aid highway legislation, as a line item in an
4 appropriation act, or when a State transportation department consents to a transfer
5 of funds under this title that are derived from the Highway Trust Fund (other than
6 the Mass Transit account), such funds may be transferred to another Federal
7 agency subject to subparagraphs (A), (B), (C), and (D) of this paragraph-

8 “(A) if the Secretary determines, after consultation with the State
9 transportation department as appropriate, that another Federal agency
10 should carry out a project with funds made available under this title or any
11 other act that are derived from Highway Trust Fund (other than the Mass
12 Transit account);

13 “(B) the project will be administered by the Federal agency under
14 its procedures, and such funds shall not be deemed to be an augmentation
15 of that agency"s appropriations;

16 “(C) such other Federal agency agrees to accept the transfer of
17 funds and to administer those funds; and

18 “(D) the provisions of this title or the acts referred to above
19 relating to the non-Federal share shall apply to the transferred funds,
20 except where the Secretary determines that it is in the best interest of the
21 United States that such share be waived.

22 “(4) TRANSFER OF FUNDS AMONG STATES OR TO THE
23 FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the
24 request of a State, transfer funds apportioned or allocated to such State to another
25 State or to the Federal Highway Administration for the purpose of funding a
26 specific project or projects. The funds transferred shall be used for the same
27 purpose and in the same manner for which they were authorized. Such transfer
28 shall have no effect on any apportionment formula used to distribute funds to the
29 States under sections 104, 105, or 144. Funds that are apportioned or allocated to
30 a State under section 104(b)(3) and attributed to urbanized areas of a State with a
31 population of over 200,000 individuals under section 133(d)(2) may be

1 transferred under this subsection only if the metropolitan planning organization
2 designated for the area concurs, in writing, with the transfer request.

3 “(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation
4 authority shall be transferred in the same manner and amount as the funds for the
5 projects are transferred under this section.”.

6 **SEC. 1303. STATE INFRASTRUCTURE BANK PILOT PROGRAM.**

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

8 (1) CAPITAL PROJECT.--The term "capital project" has the meaning
9 such term has under section 5302 of title 49, United States Code.

10 (2) OTHER ASSISTANCE.--The term "other assistance" includes any use
11 of funds in an infrastructure bank—

12 (A) to provide credit enhancements;

13 (B) to serve as a capital reserve for bond or debt instrument
14 financing;

15 (C) to subsidize interest rates;

16 (D) to ensure the issuance of letters of credit and credit
17 instruments;

18 (E) to finance purchase and lease agreements with respect to
19 transit projects;

20 (F) to provide bond or debt financing instrument security; and

21 (G) to provide other forms of debt financing and methods of
22 leveraging funds that are approved by the Secretary and that relate to the
23 project with respect to which such assistance is being provided.

24 (3) STATE.--The term "State" has the meaning such term has under
25 section 101 of title 23, United States Code.

26 (4) CAPITALIZATION.--The term "capitalization" means the process
27 used for depositing funds as initial capital into a State Infrastructure Bank to
28 establish the infrastructure bank.

29 (5) COOPERATIVE AGREEMENT.--The term "cooperative agreement"
30 means the written consent between a State and the Secretary which sets forth the
31 manner in which the State Infrastructure Bank will be administered.

1 (6) LOAN.--The term "loan" means any form of direct financial assistance
2 from the State Infrastructure Bank, required to be repaid over a period of time,
3 which is provided to a project sponsor for all or part of project costs.

4 (7) GUARANTEE.--The term "guarantee" means a contract or contracts
5 entered into by the State Infrastructure Bank in which the State Infrastructure
6 Bank agrees to take responsibility for all or a portion of a project sponsor's
7 financial obligations for a project under specified conditions.

8 (8) INITIAL ASSISTANCE.--The term "initial assistance" means the first
9 round of State Infrastructure Bank funds that must be loaned or used for credit
10 enhancement for purposes limited to highway construction under title 23 or transit
11 capital projects under title 49.

12 (9) LEVERAGE.--The term "leverage" means a financial structure used
13 to increase State Infrastructure Bank funds through debt issuance. A State
14 Infrastructure Bank is considered leveraged if its total potential liabilities exceed
15 its equity.

16 (b) PILOT PROGRAM.--

17 (1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this
18 section, the Secretary may enter into cooperative agreements with up to five
19 States, including States that entered into cooperative agreements under section
20 1511 of the Transportation Equity Act for the 21st Century, as amended, for the
21 establishment of State infrastructure banks for making loans and providing other
22 forms of credit assistance to public and private entities carrying out or proposing
23 to carry out projects eligible for assistance under this section.

24 (2) APPLICATION.-- To participate in the pilot program, a State shall
25 submit an application to the Secretary.

26 (3) SELECTION CRITERIA.--In evaluating applications for participation
27 in the pilot program, the Secretary shall establish selection criteria that shall
28 include--

29 (A) the State's ability to provide non-Federal funds to capitalize the
30 bank;

1 (B) the existence of State enabling legislation that clearly allows
2 for full State Infrastructure Bank participation;

3 (C) the State's strategy for encouraging non-Federal repayment
4 sources from project sponsors;

5 (D) the amount of Federal funds the State will commit to the State
6 Infrastructure Bank as a percentage of its Federal-aid apportionments;

7 (E) the State's eligibility under section 1511 of the Transportation
8 Equity Act for the 21st Century, as amended; and

9 (F) the State's past experience with a State Infrastructure Bank,
10 including the program established under section 1511 of the
11 Transportation Equity Act for the 21st Century, as amended, or comparable
12 financing mechanisms.

13 (4) TERMINATION OF COOPERATIVE AGREEMENT.--If a State that
14 has been selected for this pilot program does not fund its State Infrastructure Bank
15 within 90 days after execution of the cooperative agreement, the Secretary may
16 terminate the cooperative agreement and may select another State to participate in
17 the pilot program in accordance with this subsection.

18 (c) INTERSTATE COMPACTS.—Congress grants consent to 2 or more of the
19 States, entering into a cooperative agreement under subsection (b)(1) with the Secretary
20 for the establishment of a multi-state infrastructure bank, to enter into an interstate
21 compact establishing such bank in accordance with this section.

22 (d) FUNDING.—

23 (1) HIGHWAY ACCOUNT.--Subject to subsection (i), the Secretary may
24 permit a State entering into a cooperative agreement under this section to
25 contribute not to exceed—

26 (A) 10 percent of the funds apportioned to the State for each of
27 fiscal years 2004 through 2009 under each of sections 104(b)(1),
28 104(b)(3), 104(b)(4), and 144, of title 23, United States Code, and

29 (B) 10 percent of the funds allocated to the State for each of such
30 fiscal years under section 105 of such title into the highway account of the
31 infrastructure bank established by the State. Federal funds contributed to

1 such account under this paragraph shall constitute for purposes of this
2 section a capitalization grant for the highway account of the infrastructure
3 bank.

4 (2) TRANSIT ACCOUNT.--Subject to subsection (i), the Secretary may
5 permit a State entering into a cooperative agreement under this section, and any
6 other Federal transit grant recipient, to contribute not to exceed 10 percent of the
7 funds made available to the State or other Federal transit grant recipient in each of
8 fiscal years 2004 through 2009 for capital projects under sections 5307, 5309, and
9 5311 of title 49, United States Code, into the transit account of the infrastructure
10 bank established by the State. Federal funds contributed to such account under
11 this paragraph shall constitute for purposes of this section a capitalization grant
12 for the transit account of the infrastructure bank.

13 (3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—
14 Funds that are attributed to urbanized areas of States with urbanized populations
15 of over 200,000 under section 133(d)(2) of title 23, as amended by this Act, may
16 be used to provide assistance with respect to a project only if the metropolitan
17 planning organization designated for such area concurs, in writing, with the
18 provision of such assistance.

19 (4) DISCONTINUANCE OF FUNDING.--If the Secretary determines that
20 a State is not implementing the State Infrastructure Bank in accordance with the
21 cooperative agreement, the Secretary may prohibit a State from contributing
22 additional Federal funds to its State Infrastructure Bank.

23 (e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An
24 infrastructure bank established under this section may make loans or provide other credit
25 assistance to a public or private entity in an amount equal to all or part of the cost of
26 carrying out a project eligible for assistance under this section. The amount of any loan or
27 other credit assistance provided for such project may be subordinated to any other debt
28 financing for the project. Initial assistance provided with respect to a project from Federal
29 funds contributed to an infrastructure bank under this section may not be made in the
30 form of a grant.

1 (f) QUALIFYING PROJECTS.—Subject to paragraph (e), funds in an
2 infrastructure bank established under this section may be used only to provide assistance
3 with respect to projects eligible for assistance under title 23, United States Code, for
4 capital projects (as defined in section 5302 of title 49, United States Code), or for any
5 other project related to surface transportation that the Secretary determines to be
6 appropriate.

7 (g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an
8 infrastructure bank under this section, each State establishing the bank shall--

9 (1) contribute, at a minimum, into each account of the bank from non-
10 Federal sources an amount equal to 25 percent of the amount of each
11 capitalization grant made to the State and contributed to the bank, except that if
12 the contribution is into the highway account of the bank and the State has a lower
13 non-Federal share under section 120(d) of title 23, as amended by this Act, such
14 percentage shall be adjusted by the Secretary to correspond with such lower non-
15 Federal share. The non-Federal share must be in the form of cash;

16 (2) ensure that the bank maintains on a continuing basis an investment
17 grade rating on its debt or has a sufficient level of bond or debt financing
18 instrument insurance to maintain the viability of the bank;

19 (3) ensure that investment income generated by funds contributed to an
20 account of the bank will be—

21 (A) credited to the account;

22 (B) available for use in providing loans and other assistance to
23 projects eligible for assistance from the account; and

24 (C) invested in United States Treasury securities, bank deposits, or
25 such other financing instruments as the Secretary may approve to earn
26 interest to enhance the leveraging of projects assisted by the bank;

27 (4) ensure that any loan from the bank will bear interest at or below
28 market interest rates, as determined by the State, to make feasible the project that
29 is the subject of the loan;

1 (5) ensure that repayment of any loan from the bank will commence not
2 later than 5 years after the project has been completed or, in the case of a highway
3 project, the facility has opened to traffic, whichever is later;

4 (6) ensure that the term for repaying any loan will not exceed 30 years
5 after the date of the first payment on the loan under paragraph (5); and

6 (7) require the bank to make an annual report to the Secretary on its status,
7 and to make such other reports as the Secretary may require by guidelines.

8 (h) SECRETARIAL REQUIREMENTS.—In administering this section,
9 the Secretary shall—

10 (1) issue guidelines to ensure that all requirements of title 23, United
11 States Code, or title 49, United States Code, that would otherwise apply to funds
12 made available under such title and projects assisted with such funds apply to--

13 (A) funds made available under such title and contributed to an
14 infrastructure bank established under this section; and

15 (B) projects assisted by the bank through the use of such funds;
16 except to the extent that the Secretary determines that any requirement of
17 such title (other than sections 113 and 114 of title 23 and section 5333 of
18 title 49), is not consistent with the objectives of this section; and

19 (2) specify procedures and guidelines for establishing, operating, and
20 providing assistance from the bank.

21 (i) APPLICABILITY OF FEDERAL LAW TO REPAYMENTS.—The
22 requirements of title 23 and title 49, United States Code, shall apply to projects financed
23 from repayments to an infrastructure bank from projects assisted by the bank. Such
24 repayments shall be considered to be Federal funds for the purpose of this subsection.

25 (j) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds
26 into an infrastructure bank established under this section shall not be construed as a
27 commitment, guarantee, or obligation on the part of the United States to any third party,
28 nor shall any third party have any right against the United States for payment solely by
29 virtue of the contribution. Any security or debt-financing instrument issued by the
30 infrastructure bank shall expressly state that the security or instrument does not constitute
31 a commitment, guarantee, or obligation of the United States.

1 (k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title
2 31, United States Code, shall not apply to funds contributed under this section.

3 (l) PROGRAM ADMINISTRATION.—For each of fiscal years 2004 through
4 2009, a State may expend not to exceed 2 percent of the Federal funds contributed to an
5 infrastructure bank established by the State under this section to pay the reasonable costs
6 of administering the bank. This limitation shall not apply to non-Federal funds.

7 **SEC. 1304. TRANSPORTATION INFRASTRUCTURE FINANCE AND**
8 **INNOVATION ACT (TIFIA) AMENDMENTS.**

9 (a) DEFINITIONS.—Section 181 of title 23, United States Code is amended—

10 (1) in paragraph (3), by striking “category” and “offered into the capital
11 markets”;

12 (2) by striking paragraph (7) and redesignating paragraphs (8) through
13 (15) as paragraphs (7) through (14) respectively;

14 (3) by amending paragraph (8)(D), as redesignated, to read as follows—

15 “(D) a public or private freight rail facility; an intermodal freight
16 transfer facility; access to such facilities; and service improvements for such
17 facilities including capital investment for Intelligent Transportation Systems;
18 or a group of such projects with the common objective of improving the flow
19 of goods, except that projects located within the boundaries of port terminals
20 shall only include the transportation infrastructure modifications necessary to
21 facilitate direct intermodal access into and out of such port. Such a project
22 may involve the combining of private and public sector funds, including
23 investment of public funds in private sector facility improvements.”; and

24 (4) in paragraph (10), as redesignated, by striking “bond” and inserting
25 “credit”.

26 (b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—

27 Section 182 of such title is amended—

28 (1) in subsection (a)—

29 (A) by striking paragraphs (1) and (2) and inserting the following:

30 “(1) INCLUSION IN TRANSPORTATION PLANS AND
31 PROGRAMS.—The project shall satisfy the applicable planning and

1 programming requirements of sections 134 and 135 at such time as an agreement
2 to make available a Federal credit instrument is entered into under this
3 subchapter.

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

7 (B) in paragraph (3)(A)(i), by striking "\$100,000,000" and
8 inserting "\$50,000,000"; and

9 (C) in paragraph (4), by striking "Project financing" and inserting
10 "The Federal credit instrument" and by adding at the end of the sentence
11 "that also secure the project obligations"; and

12 (2) in subsection (b)(1), by striking "criteria" after "eligibility" and
13 inserting "requirements" and in subsection (b)(2)(B) by inserting ", which may be
14 the Federal credit instrument," after "obligations".

15 (c) SECURED LOANS.—Section 183 of such title is amended—

16 (1) in subsection (a)—

17 (A) by striking "of any project selected under section 182." at the
18 end of paragraph (1);

19 (B) by inserting "of any project selected under section 182" after
20 "costs" in paragraphs (1)(A) and (1)(B); and

21 (C) in paragraph (4), by striking "funding" and inserting
22 "execution" and by inserting a period in place of the comma after
23 "receiving an investment grade rating" and striking all that follows to the
24 end of the paragraph;

25 (2) in subsection (b)—

26 (A) by inserting “the lesser of” after “exceed” and “or the amount
27 of the senior project obligations” after “costs”;

28 (B) by inserting "that also secure the senior project obligations" in
29 paragraph (3)(A)(i) after "sources"; and

30 (C) by striking "marketable" in paragraph (4); and

1 (3) in subsection (c), by striking paragraph (3) and redesignating
2 paragraphs (4) and (5) as paragraphs (3) and (4) respectively;

3 (d) LINES OF CREDIT.—Section 184 of such title is amended—

4 (1) in subsection (b)—

5 (A) in paragraph (3), by striking the comma after "interest" and by
6 striking "any debt service reserve fund, and any other available reserve",
7 and by inserting "but not including reasonably required financing
8 reserves";

9 (B) in paragraph (4), by striking "marketable"; by striking "on
10 which" after "date" and inserting "of execution of"; and by striking "is
11 obligated" after "credit" and inserting "agreement"; and

12 (C) in paragraph (5)(A)(i), by inserting "that also secure the senior
13 project obligations" after "sources"; and

14 (2) in subsection (c)—

15 (A) in paragraph (2) by striking "scheduled", by inserting "be
16 scheduled to" after "shall", and by striking "be fully repaid, with interest,"
17 and inserting "to conclude, with full repayment of principle and interest,";
18 and

19 (B) by striking paragraph (3).

20 (e) PROGRAM ADMINISTRATION.—Section 185 of such title is amended to
21 read as follows:

22 **"§ 185. Program administration**

23 "(a) REQUIREMENT.—The Secretary shall establish a uniform system to service
24 the Federal credit instruments made available under this subchapter.

25 "(b) FEES.—The Secretary may establish fees at a level to cover all or a portion
26 of the costs to the Federal government of servicing the Federal credit instruments.

27 "(c) SERVICER.—The Secretary may identify a financial entity to assist the
28 Secretary in servicing the Federal credit instruments. The servicer—

29 "(1) shall act as the agent for the Secretary; and

30 "(2) shall receive a servicing fee, subject to approval by the Secretary.

1 "(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the
2 services of expert firms, including counsel, in the field of municipal and project finance
3 to assist in the underwriting and servicing of Federal credit instruments."

4 (f) FUNDING.—Section 188 of such title is amended to read as follows:

5 **"§ 188. Funding**

6 "(a) FUNDING.—

7 "(1) IN GENERAL.—There are authorized to be appropriated from the
8 Highway Trust Fund (other than the Mass Transit Account) \$130,000,000 for
9 each of fiscal years 2004 through 2009 to carry out this subchapter.

10 "(2) ADMINISTRATIVE COSTS.—From funds made available under
11 paragraph (1), the Secretary may use, for the administration of this subchapter,
12 not more than \$3,000,000 for each of fiscal years 2004 through 2009.

13 "(3) AVAILABILITY.—Amounts made available under paragraph (1)
14 shall remain available until expended.

15 "(b) CONTRACT AUTHORITY.—

16 "(1) IN GENERAL.—Notwithstanding any other provision of law,
17 approval by the Secretary of a Federal credit instrument that uses funds made
18 available under this subchapter shall be deemed to be acceptance by the United
19 States of a contractual obligation to fund the Federal credit investment.

20 "(2) AVAILABILITY.—Amounts authorized under this section for a
21 fiscal year shall be available for obligation on October 1 of the fiscal year.

22 "(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 2004
23 through 2009, principal amounts of Federal credit instruments made available shall be
24 limited to \$2,600,000,000."

25 (g) Section 189 of such title is repealed.

26 (h) CONFORMING AMENDMENTS.--The analysis of chapter 1 of title 23 is
27 amended by--

28 (1) revising the item relating to section 185 to read as follows:

29 "185. Program administration."; and

30 (2) striking the item relating to section 189.

1 **SEC. 1305. INTERNATIONAL REGISTRATION PLAN AND**
2 **INTERNATIONAL FUEL TAX AGREEMENT FACILITATION.**

3 The Secretary may provide assistance to any State that is participating in the
4 International Registration Plan and International Fuel Tax Agreement, as provided in
5 sections 31704 and 31705 of title 49, United States Code, and that serves as a base
6 jurisdiction for motor carriers that are domiciled in Mexico, to help the State with
7 administration needs resulting from serving as a base jurisdiction for motor carriers from
8 Mexico.

9 **SEC. 1306. COMMERCIALIZED REST AREA PILOT PROJECTS.**

10 (a) IN GENERAL.--The Secretary shall permit the States to conduct pilot projects
11 to acquire, construct, operate, convert, and maintain rest areas along Interstate highways
12 in their States in accordance with subsection (b).

13 (b) COMMERCIAL OPERATIONS.—

14 (1) ELIGIBILITY.--Notwithstanding section 111 of title 23 United States
15 Code, and the project agreements required by section 111(a) and executed
16 between the States and the Federal Highway Administration, the Secretary shall
17 permit the rest areas in the pilot projects to include commercial operations that
18 provide goods, services, and information that benefit the traveling public and the
19 commercial motor carrier industry, and as deemed appropriate by the States,
20 including:

21 (A) commercial advertising and displays if such advertising and
22 media displays are:

23 (i) exhibited solely within any facility constructed in the
24 rest area; and

25 (ii) not legible from the main traveled way;

26 (B) programs to provide commercial vehicle operators with special
27 services designed to enhance motor carrier and highway safety; and

28 (C) State promotional or tourism-oriented items.

29 (2) PRIVATE OPERATORS.--The States may permit such commercial
30 operations to be run by a private operator.

1 (c) PARTICIPATION.--Participation in this pilot project is limited to those
2 proposals submitted to the Secretary for approval during the one year period after the date
3 of enactment of this Act.

4 (d) PROPOSALS.--

5 (1) The State proposals shall at a minimum--

6 (A) describe the types of goods, services and information to be
7 provided;

8 (B) demonstrate that the proposed project(s) helps implement the
9 strategies developed in the “Study of Adequacy of Parking Facilities”
10 prepared pursuant to section 4027 of the Transportation Equity Act for the
11 21st Century;

12 (C) contain a review and update of the individual State action
13 plans for addressing commercial truck parking shortages; and

14 (D) prepare a plan for evaluating the results of the pilot project(s)
15 in that State.

16 (2) The Secretary must determine that commercial rest area projects being
17 advanced under this pilot program will meet all of the design standards applicable
18 to rest areas on the Interstate system.

19 (e) LIMITATION ON USE OF REVENUES.-- Any revenues received by a State
20 from the commercial operations in a rest area under this section that are in excess of
21 amounts required for the proper operation and maintenance of the rest area shall be used
22 by the State for projects eligible under title 23, United States Code.

23 (f) CONSIDERATIONS.—The Secretary shall consider the benefit to the
24 traveling public and the impact on local businesses in carrying out this section.

25 (g) VENDING MACHINES.--If vending machines are placed in a pilot project,
26 the State shall give priority to vending machines operated through the State licensing
27 agency designated under the Randolph-Sheppard Act.

28 **SEC. 1307. HIGHWAY USE TAX EVASION PROJECTS.**

29 (a) ELIGIBLE ACTIVITIES.— Section 143(b) of title 23, United States Code, is
30 amended as follows:

1 (1) INTERGOVERNMENTAL ENFORCEMENT EFFORTS.--

2 Paragraph (2) is amended by inserting a comma after "Secretary" and adding
3 "except that for each of fiscal years 2004 through 2009, \$2,000,000 shall be
4 available only to carry out intergovernmental enforcement efforts, including
5 research and training".

6 (2) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL
7 REVENUE SERVICE.--Paragraph (3) is amended by inserting a comma after
8 "subsection" and adding "except as otherwise provided in this section".

9 (3) LIMITATION ON USE OF FUNDS.--Paragraph (4) is amended--

10 (A) by striking "and" at the end of subparagraph (F);

11 (B) by striking the period at the end of subparagraph (G) and
12 inserting a semicolon; and

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

14 "(H) to support efforts between States and Tribes to address issues
15 related to state motor fuel taxes; and

16 "(I) to analyze and implement programs to reduce tax evasion
17 associated with foreign imported fuel."

18 (4) REPORTS.--The following new paragraph is added at the end:

19 "(9) REPORTS.—The Internal Revenue Service and States shall submit to
20 the Secretary annual reports that describe the projects, examinations, and criminal
21 investigations funded by and carried out under this section. The reports must
22 specify the annual yield estimated for each project funded under this section.".

23 (b) EXCISE FUEL REPORTING SYSTEM.— Section 143(c) of such title is
24 amended--

25 (1) in paragraph (1) by striking "Not later than August 1, 1998," and
26 inserting "Not later than 90 days after enactment of the Safe, Accountable,
27 Flexible, and Efficient Transportation Equity Act of 2003,"; by striking
28 "development" and inserting "completion, operation,"; by striking "an excise fuel
29 reporting system" and inserting "the excise summary terminal activity reporting
30 system"; and by striking "(in this subsection referred to as the "system")";

31 (2) in paragraph (2)--

1 (A) by striking "the system" each place it appears and inserting
2 "the excise summary terminal activity reporting system ";

3 (B) in subparagraph (A), by striking "develop" and inserting
4 "complete";

5 (C) by striking "and" at the end of subparagraph (B);

6 (D) by striking the period at the end of subparagraph (C) and
7 inserting "; and"; and

8 (E) by adding at the end the following new subparagraph:

9 "(D) the Commissioner of the Internal Revenue Service shall
10 submit and the Secretary shall approve a budget and project plan for the
11 completion, operation, and maintenance of the excise summary terminal
12 activity reporting system."; and

13 (3) by amending paragraph (3) to read as follows:

14 "(3) FUNDING.—Of the amounts made available to carry out this section
15 for each of fiscal years 2004 through 2009, the Secretary shall make funds
16 available to the Internal Revenue Service to complete, operate, and maintain the
17 excise summary terminal activity reporting system in accordance with this
18 subsection."

19 (c) REGISTRATION SYSTEM AND ELECTRONIC DATABASE.--Section
20 143 as amended by this Act is further amended by adding at the end the following new
21 subsections:

22 "(d) PIPELINE, VESSEL, AND BARGE REGISTRATION SYSTEM.--

23 "(1) IN GENERAL.--Not later than 90 days after enactment of the Safe,
24 Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the
25 Secretary shall enter into a memorandum of understanding with the
26 Commissioner of the Internal Revenue Service for the purposes of the
27 development, operation, and maintenance of a registration system for pipelines,
28 vessels, and barges, and operators of such pipelines, vessels, and barges, that
29 make bulk transfers of taxable fuel.

30 "(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.--The
31 memorandum of understanding shall provide that--

1 "(A) the Internal Revenue Service shall develop and maintain the
2 registration system through contracts;

3 "(B) the Commissioner of the Internal Revenue Service shall
4 submit and the Secretary shall approve a budget and project plan for
5 development, operation, and maintenance of the registration system;

6 "(C) the registration system shall be under the control of the
7 Internal Revenue Service; and

8 "(D) the registration system shall be made available for use by
9 appropriate State and Federal revenue, tax, and law enforcement
10 authorities, subject to section 6103 of the Internal Revenue Code of 1986.

11 “(3) FUNDING.—Of the amounts made available to carry out this section
12 for each of fiscal years 2004 through 2009, the Secretary shall make funds
13 available to the Internal Revenue Service to complete, operate, and maintain a
14 registration system for pipelines, vessels, and barges, and operators of such
15 pipelines, vessels, and barges, that make bulk transfers of taxable fuel in
16 accordance with this subsection.

17 "(e) HEAVY VEHICLE USE TAX PAYMENT DATABASE.--

18 "(1) IN GENERAL.--Not later than 90 days after enactment of the Safe,
19 Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the
20 Secretary shall enter into a memorandum of understanding with the
21 Commissioner of the Internal Revenue Service for the purposes of the
22 establishment, operation, and maintenance of an electronic database of heavy
23 vehicle highway use tax payments.

24 "(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.--The
25 memorandum of understanding shall provide that--

26 "(A) the Internal Revenue Service shall establish and maintain the
27 electronic database through contracts;

28 "(B) the Commissioner of the Internal Revenue Service shall
29 submit and the Secretary shall approve a budget and project plan for
30 establishment, operation, and maintenance of the electronic database;

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

3 "(D) the electronic database shall be made available for use by
4 appropriate State and Federal revenue, tax, and law enforcement
5 authorities, subject to section 6103 of the Internal Revenue Code of 1986.

6 “(3) FUNDING.—Of the amounts made available to carry out this section
7 for each of fiscal years 2004 through 2009, the Secretary shall make funds
8 available to the Internal Revenue Service to establish, operate, and maintain an
9 electronic database of heavy vehicle highway use tax payments in accordance
10 with this subsection.

11 “(f) By March 30 and September 30 of each year, the Internal Revenue Service
12 shall provide reports to the Secretary on the status of the Internal Revenue Service
13 projects funded under this section related to the excise summary terminal activity
14 reporting system; the pipeline, vessel, and barge registration system; and the heavy
15 vehicle use tax electronic database.”.

16 (d) ALLOCATIONS.--Of the amounts authorized to be appropriated under
17 section 1101(a)(14) of this Act for Highway Use Tax Evasion Projects for each of fiscal
18 years 2004 through 2009, \$4,500,000 shall be allocated to the States, and for fiscal year
19 2004, \$20,050,000 shall be allocated to the Internal Revenue Service, of which
20 \$10,500,000 shall be dedicated to the excise summary terminal activity reporting system,
21 for each of fiscal years 2005 and 2006, \$48,000,000 shall be allocated to the Internal
22 Revenue Service, of which \$4,500,00 shall be dedicated to the excise summary terminal
23 activity reporting system, for fiscal year 2007, \$38,000,000 shall be allocated to the
24 Internal Revenue Service, of which \$4,500,00 shall be dedicated to the excise summary
25 terminal activity reporting system, and for each of fiscal years 2008 and 2009,
26 \$4,500,000 shall be allocated to the Internal Revenue Service, which shall be used for the
27 excise summary terminal activity reporting system.

28
29 **Subtitle D. Program Efficiencies and Improvements - Safety**
30

1 **SEC. 1401. NATIONAL HIGHWAY SAFETY GOAL; NATIONAL BLUE**
2 **RIBBON COMMISSION ON HIGHWAY SAFETY.**

3 (a) NATIONAL HIGHWAY SAFETY GOAL.—Section 101 of title 23, United
4 States Code, is amended by adding at the end the following new subsection:

5 “(f) It is hereby declared to be in the national interest that the number of deaths
6 attributable to traffic accidents on America’s highways be significantly reduced. To
7 achieve this goal, a national initiative targeted at saving lives through improved
8 engineering, education, enforcement, and emergency response in cooperation with new
9 and existing State and local safety programs is hereby authorized.”.

10 (b) NATIONAL BLUE RIBBON COMMISSION ON HIGHWAY SAFETY.—

11 (1) ESTABLISHMENT.—The Secretary shall establish a National Blue
12 Ribbon Commission on Highway Safety (hereinafter in this section referred to as
13 "the Commission").

14 (2) MEMBERSHIP.--

15 (A) COMPOSITION.--The Commission shall be composed of 15
16 members as follows--

17 (i) the Secretary or the Secretary's delegate;

18 (ii) the Administrators of the Federal Highway
19 Administration; the National Highway Traffic Safety
20 Administration; the Federal Motor Carrier Safety Administration;
21 and the Federal Railroad Administration, or the Administrators'
22 delegates; and

23 (iii) 10 members appointed by the Secretary from among
24 individuals who represent the interests of States and political
25 subdivisions of States, the safety community, public health, and
26 State and local law enforcement agencies, and who have been
27 nominated by the Committee on Environment and Public Works
28 and the Committee on Commerce, Science and Transportation of
29 the United States Senate and the Committee on Transportation and
30 Infrastructure of the United States House of Representatives.

31 (B) APPOINTMENT.--The Secretary shall select the individuals

1 to be appointed under this subsection on the basis of their knowledge,
2 expertise, or experience related to highway safety. Half of the
3 appointments shall be made from nominees submitted by the Committee
4 on Environment and Public Works and the Committee on Commerce,
5 Science and Transportation of the Senate and the other half from the
6 nominees submitted by the Committee on Transportation and
7 Infrastructure of the House of Representatives. Each of these committees
8 shall nominate 20 individuals qualified to serve on the Commission.

9 (C) TERMS.--The term of each member of the Commission shall
10 be 6 years. Any vacancy shall be filled in the manner the original
11 appointment was made. The vacancy does not affect the Commission's
12 powers.

13 (3) FUNCTION.—The Commission, to carry out the direction of
14 Congress, under section 101(f) of title 23, United States Code as amended by this
15 Act, that the number of deaths attributable to traffic accidents on America's
16 highways be significantly reduced, shall—

17 (A) oversee a comprehensive study evaluating the Nation's
18 highway safety needs over the next three decades in the areas of
19 engineering, education, enforcement, and emergency response and, based
20 on such study, make specific recommendations to the Secretary for an
21 achievable national goal for the reduction of highway fatalities and for the
22 funding necessary to achieve such goal;

23 (B) assist in developing a national consensus in support of such
24 goal; and

25 (C) advise, consult with, and make recommendations to, the
26 Secretary to assist in identifying specific measures for achieving the
27 national highway safety goal.

28 (4) SPECIFIC MATTERS TO BE ADDRESSED.—The national
29 highway safety goal study conducted by the Commission shall examine the roles
30 of highway infrastructure, drivers, and vehicles in fatalities on all public roads;
31 identify high risk areas and activities associated with the greatest numbers of

1 highway fatalities; examine the roles of various levels of government agencies
2 and non-governmental organizations in reducing highway fatalities and
3 recommend ways to strengthen highway safety partnerships; and identify
4 measures that will save the most lives both long term and short term. The study
5 shall consider, among other things, the findings, conclusions, and
6 recommendations of highway safety studies and research conducted by the
7 Transportation Research Board, including studies related to implementation of the
8 American Association of State Highway and Transportation Officials' Strategic
9 Highway Safety Plan.

10 (5) REPORTS TO CONGRESS.--

11 (A) INITIAL REPORT.--Not later than September 30, 2006, the
12 Commission shall transmit to Congress an initial report on the results of
13 the national highway safety goal study, including recommendations and
14 such legislative recommendations as the President judges necessary and
15 expedient for an achievable national goal for the reduction of highway
16 fatalities and for preliminary strategies to be implemented to achieve such
17 goal.

18 (B) FINAL REPORT.--Not later than February 1, 2009, the
19 Commission shall transmit to Congress a final report on the results of the
20 national highway safety goal study, including recommendations and such
21 legislative recommendations as the President judges necessary and
22 expedient for a comprehensive plan with specific strategies to achieve the
23 fatality reduction goal recommended in the initial report and for the level
24 of funding necessary to implement such fatality reduction plan and
25 strategies.

26 (6) TERMINATION OF COMMISSION.--The Commission shall
27 terminate on the 180th day following the date of transmittal of the final report to
28 Congress under paragraph (5)(B) of this subsection. By the 180th day, all records
29 and papers of the Commission shall be delivered to the Administrator of the
30 General Services Administration for deposit in the National Archives.

31 (7) AUTHORIZATION OF APPROPRIATIONS.--There are

1 authorized to be appropriated out of the Highway Trust Fund (other than the Mass
2 Transit Account) up to \$3,000,000 for fiscal year 2004, \$1,000,000 for fiscal year
3 2005, \$1,000,000 for fiscal year 2006, \$1,000,000 for fiscal year 2007, \$500,000
4 for fiscal year 2008, and \$500,000 for fiscal year 2009 for the purposes of
5 carrying out this subsection.

6 (8) APPLICABILITY OF TITLE 23.--Funds authorized by this
7 subsection shall be available for obligation in the same manner as if such funds
8 were apportioned under chapter 1 of title 23, United States Code, except that the
9 Federal share of the cost of the study and the Commission under this section shall
10 be 100 percent, and such funds shall remain available until expended.

11 **SEC. 1402. HIGHWAY SAFETY IMPROVEMENT PROGRAM; FLEXIBILITY**
12 **FOR SAFETY INITIATIVES**

13 (a) ESTABLISHMENT OF PROGRAM.--Chapter 1 of title 23, United States
14 Code, is amended by inserting the following new section after section 149:

15 **“§ 150. Highway Safety Improvement Program**

16 “(a) ESTABLISHMENT.--The Secretary shall establish and implement a
17 highway safety improvement program in accordance with this section, in order to
18 significantly reduce fatalities and serious injuries on the Nation’s roadway system.

19 “(b) PROGRAM.--

20 “(1) STATE RESPONSIBILITIES.--To receive funds under this section,
21 each State shall have a process in place that identifies and analyzes highway
22 safety problems and opportunities and will produce a program of projects for
23 funding under this section based on this analysis. Such process and program of
24 projects shall be known as the Highway Safety Improvement Program. The
25 statewide program shall identify hazardous locations, sections, and elements
26 including roadside obstacles, railway-highway crossing needs, and unmarked or
27 poorly marked roads that may constitute a danger to motorists, bicyclists,
28 pedestrians, and other highway users. States shall also have crash data systems
29 and the ability to perform safety problem identification and countermeasure
30 analysis.

1 “(2) PROGRAM ADMINISTRATION.--The Secretary shall establish
2 implementing guidelines for this program, which shall include at a minimum the
3 following components:

4 “(A) STRATEGIC APPROACH TO HIGHWAY SAFETY.--Each
5 State shall, as appropriate, adopt strategic and performance-based goals
6 for its Highway Safety Improvement Program. This statewide program
7 shall address safety problems and opportunities on all roadways within the
8 State, focus resources on areas of greatest need, and be complementary to
9 the programs developed in response to section 402 of this title.

10 “(B) DATA IMPROVEMENT PROGRAM.—Each State shall, as
11 appropriate, advance its capabilities for traffic records data collection,
12 analysis, and integration with other sources of safety data such as roadway
13 inventories. Such a data improvement program shall be complementary to
14 the programs supported by sections 402 and 412 of this title; include all
15 public roads; and contain provisions to identify hazardous locations,
16 sections, and elements on these public roads that constitute a danger to
17 motorists, bicyclists, and pedestrians.

18 “(C) PROGRAM OF IMPROVEMENTS.—Each State shall
19 determine priorities for the correction of hazardous roadway locations,
20 sections, and elements, including railway-highway crossing
21 improvements, as identified through crash data analysis; identify
22 opportunities for preventing the development of such hazardous
23 conditions; and establish and implement a schedule of safety improvement
24 projects for hazard correction and hazard prevention.

25 “(D) EVALUATION.—Each State shall, as appropriate, establish
26 an evaluation process to analyze and assess results achieved by safety
27 improvement projects carried out in accordance with procedures and
28 criteria established by this section, and such information shall be used in
29 setting priorities for safety improvement projects.

30 “(c) REPORTS.--Each State shall report to the Secretary on progress being made

1 to implement safety improvement projects under this section and the effectiveness of
2 such improvements. The Secretary shall establish the content and schedule for such
3 reports.

4 “(d) ELIGIBLE PROJECTS.—

5 “(1) IN GENERAL.—A State may obligate funds apportioned to it under
6 this section for any safety improvement project on any public road or publicly-
7 owned bicycle or pedestrian pathway or trail.

8 “(2) SAFETY IMPROVEMENT PROJECT.—For purposes of this section
9 the term ‘safety improvement project’ means a project that corrects or improves a
10 hazardous roadway location or feature, or proactively addresses highway safety
11 problems, including: intersection improvements, pavement and shoulder
12 widening, installation of rumble strips and other warning devices, improving skid
13 resistance, improvements for pedestrian or bicyclist safety, railway-highway
14 crossing safety, traffic calming, elimination of roadside obstacles, improving
15 highway signage and pavement marking, installing priority control systems for
16 emergency vehicles at signalized intersections, installing traffic control or
17 warning devices at locations with high accident potential, safety conscious
18 planning, and improving crash data collection and analysis.

19 “(e) FUNDING.—Sums authorized to be appropriated to carry out this section
20 shall be apportioned in accordance with section 104(b)(5).

21 “(f) FEDERAL SHARE.—The Federal share payable on account of any project
22 carried out under this section shall be 90 percent of the cost thereof.

23 “(g) USE OF FUNDS.—Beginning in fiscal year 2005 and for each fiscal year
24 thereafter, 10 percent of the funds available to a State to carry out the highway safety
25 improvement program established in accordance with this section shall be obligated for
26 projects under section 402 of this title, unless by October 1 of the fiscal year in which
27 funds become available to a State the State has enacted a primary safety belt law or the
28 State demonstrates that the safety belt use rate in that State meets or exceeds 90 percent.
29 A State subject to the provisions of this subsection must have in place or adopt a strategic
30 highway safety plan in accordance with section 151 of this title. Activities funded under
31 this subsection shall be consistent with such a plan.

1 “(h) USE OF OTHER FUNDING FOR SAFETY.—Nothing in this section shall
2 be interpreted to prohibit the use of funds made available under other sections of this title
3 for highway safety improvement projects, and States are to encouraged to address the full
4 scope of their safety needs and opportunities by using other funds unless provisions exist
5 that prohibit such use.”.

6 (b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT
7 PROGRAM FUNDS.—Section 104 of such title is amended--

8 (1) by inserting in subsection (a) “the Highway Safety Improvement
9 Program under section 150,” after “section 204,”;

10 (2) by inserting in subsection (b) “the Highway Safety Improvement
11 Program,” after “Improvement Program,”; and

12 (3) by adding at the end of subsection (b) the following new paragraph:
13 “(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

14 “(A) IN GENERAL.-- For the Highway Safety Improvement
15 Program, in accordance with the following formula:

16 “(i) 25 percent of the apportionments in the ratio that--

17 “(I) the total lane miles of Federal-aid highways in
18 each State; bears to

19 “(II) the total lane miles of Federal-aid highways in
20 all States.

21 “(ii) 40 percent of the apportionments in the ratio that--

22 “(I) the total vehicle miles traveled on lanes on
23 Federal-aid highways in each State; bears to

24 “(II) the total vehicle miles traveled on lanes on
25 Federal-aid highways in all States.

26 “(iii) 35 percent of the apportionments in the ratio that--

27 “(I) the estimated tax payments attributable to
28 highway users in each State paid into the Highway Trust
29 Fund (other than the Mass Transit Account) in the latest
30 fiscal year for which data are available; bears to

1 (II) the estimated tax payments attributable to
2 highway users in all States paid into the Highway Trust
3 Fund (other than the Mass Transit Account) in the latest
4 fiscal year for which data are available.

5 (B) Minimum apportionment.--Notwithstanding subparagraph
6 (A), each State shall receive a minimum of 1/2 of 1 percent of the funds
7 apportioned under this paragraph."

8 (c) FLEXIBILITY FOR SAFETY INITIATIVES.--Chapter 1 of such title, as
9 amended by this Act, is further amended--

10 (1) by repealing section 152;

11 (2) by redesignating section 151 as section 152; and

12 (3) by inserting the following new section 151 after section 150:

13 **“§ 151. Flexibility for safety initiatives**

14 “(a) IN GENERAL.—As provided in this section, a State that develops and
15 implements a strategic highway safety plan and comprehensive safety planning process
16 shall have the flexibility to use funds available under section 150 of this title, the
17 Highway Safety Improvement Program, for title 23 safety purposes not otherwise eligible
18 under such section, including funding for public awareness, education, and enforcement.

19 “(b) STRATEGIC HIGHWAY SAFETY PLAN.—To qualify for flexible safety
20 funding as provided under this section, the State strategic highway safety plan must--

21 “(1) be based on a collaborative process that includes the State
22 Department of Transportation, the Governor's Representative for Highway Safety,
23 persons responsible for administering section 130 of this title at the State level,
24 and other major State and local safety stakeholders, including Operation
25 Lifesaver;

26 “(2) address engineering, education, enforcement, and emergency services
27 elements of highway safety;

28 “(3) consider the results of existing State transportation and highway
29 safety planning processes; and

30 “(4) be certified by the Secretary, in consultation with the Federal
31 Highway Administration and the National Highway Traffic Safety

1 Administration, as based on a comprehensive, collaborative process, and effective
2 analyses of State crash data.

3 “(c) SAFETY ACTIVITIES CONSISTENT WITH PLAN.—To qualify for the
4 flexible use of funds available under sections 150 and 402(k) in accordance with this
5 section, activities must be consistent with the State strategic highway safety plan.

6 "(d) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—
7 Nothing in this section shall require a State to revise existing State processes, plans, or
8 programs.

9 "(e) FLEXIBLE FUNDING.--A State that receives funds under section 150 shall
10 use such funds for projects eligible under such section, except that up to 50 percent of
11 such funds may be used for activities eligible for assistance under section 402 of this title
12 that are consistent with the State's strategic highway safety plan and not otherwise
13 eligible for assistance under section 150."

14 (d) ELIMINATION OF SURFACE TRANSPORTATION PROGRAM SET-
15 ASIDE.--Section 133(d) of such title is amended by striking paragraph (1) and by
16 redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

17 (e) CONFORMING AMENDMENTS.

18 (1) The analysis for chapter 1 of such title is amended—

19 (A) by striking the item relating to section 152;

20 (B) by renumbering "151. National bridge inspection program." as
21 "152"; and

22 (C) by inserting after the item relating to section 149 the
23 following:

24 "150. Highway Safety Improvement Program.

25 "151. Flexibility for safety initiatives."

26 (2) Section 130 of such title is amended--

27 (A) by striking subsections (e) and (f) and redesignating
28 subsections (g) through (j) as (e) through (h), respectively; and

29 (B) in subsection (f), as redesignated by this Act, by striking
30 "authorized to be appropriated to carry out this section" and inserting

1 "made available as provided under section 150 of this title to carry out this
2 section".

3 (3) Section 154(c)(3) of such title is amended by striking "152" and
4 inserting "150".

5 (4) Section 164(b)(3) of such title is amended by striking "152" and
6 inserting "150".

7 (5) Section 409 of such title is amended by striking "152" and inserting
8 "150".

9 **SEC. 1403. OPERATION LIFESAVER.**

10 Section 104(d)(1) of title 23, United States Code, is amended by striking
11 "\$500,000" and inserting "\$600,000".

12 **SEC. 1404. HIGHWAY SAFETY PROGRAMS; CERTIFICATION OF PUBLIC**
13 **ROAD MILEAGE.**

14 Section 402(c) of title 23, United States Code, is amended by striking in the fifth
15 sentence "the Governor of".

16

17 **Subtitle E. Program Efficiencies and Improvements - Planning**

18

19 **SEC. 1501. METROPOLITAN PLANNING.**

20 Section 134 of title 23, United States Code, is amended by striking subsections (a)
21 through (o) and inserting the following:

22 "Metropolitan planning shall be carried out in accordance with section 5203 of
23 title 49, United States Code."

24 **SEC. 1502. STATEWIDE PLANNING.**

25 Section 135 of title 23, United States Code, is amended by striking subsections (a)
26 through (i) and inserting the following:

27 "Statewide planning shall be carried out in accordance with section 5204 of title
28 49, United States Code."

29 **Sec. 1503. STATE PLANNING AND RESEARCH.**

30 (a) STATE PLANNING AND RESEARCH.—Chapter 5 of title 23, United States
31 Code, is amended by striking section 505.

1 (b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is
2 amended by striking the item related to section 505.

3 (c) APPORTIONMENT.--Section 104 of title 23, United States Code, is amended--

4 (1) by redesignating subsections (i), (j), (k), and (l) as subsections (k), (l), (m),
5 and (n), respectively; and

6 (2) by inserting after subsection (h) the following:

7 “(i) STATE PLANNING AND RESEARCH.--

8 “(1) IN GENERAL.--Two and 1/2 percent of the sums apportioned to a State
9 for each fiscal year under this section (other than subsections (f) and (h)) and under
10 sections 105 and 144 of this title shall be available for expenditure by the State, in
11 consultation with the Secretary, only for the following purposes:

12 “(A) Engineering and economic surveys and investigations.

13 “(B) The planning of future highway and local public transportation
14 systems, the planning of the financing of such systems, and metropolitan and
15 statewide planning under sections 134 and 135 of this title, including freight
16 planning, safety planning, transportation systems management and operations
17 planning, transportation-related land use planning, and transportation-related
18 growth management activities within these planning processes and planning
19 capacity building activities described in section 104(j) of this title.

20 “(C) Development and implementation of infrastructure management
21 and traffic monitoring systems under section 303 of this title and for asset
22 management activities.

23 “(D) Studies of the economy, safety, and convenience of highway and
24 local public transportation systems and the desirable regulation and equitable
25 taxation of their use.

26 “(E) Research, development, and technology transfer activities
27 necessary in connection with the planning, design, construction, management,
28 maintenance, regulation, and taxation of the use of highway, local public
29 transportation, and intermodal transportation systems.

1 “(F) Study, research, and training on the engineering standards and
2 construction materials, including accreditation of inspection and testing, for
3 highway, local public transportation, and intermodal transportation systems.

4 “(2) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT,
5 AND TECHNOLOGY TRANSFER ACTIVITIES.--

6 “(A) IN GENERAL.--Subject to subparagraph (B), not less than 20
7 percent of the funds subject to paragraph (1) for a fiscal year shall be
8 expended by the State for research, development, and technology transfer
9 activities described in paragraph (1), relating to highway, local public
10 transportation, and intermodal transportation systems.

11 “(B) WAIVERS.--The Secretary may waive the application of
12 subparagraph (A) with respect to a State for a fiscal year if the State certifies
13 to the Secretary for the fiscal year that the funds described in subparagraph
14 (A) are not needed for research, development, and technology transfer and the
15 Secretary accepts such certification.

16 “(C) NONAPPLICABILITY OF ASSESSMENT.--Funds expended
17 under subparagraph (A) shall not be considered to be part of the extramural
18 budget of the agency for the purpose of section 9 of the Small Business Act
19 (15 U.S.C. 638).

20 “(3) MINIMUM EXPENDITURES FOR IMPROVING THE QUALITY OF
21 COLLECTION AND REPORTING OF STRATEGIC SURFACE
22 TRANSPORTATION DATA.--

23 “(A) IN GENERAL.--Subject to subparagraph (B), not less than 20%
24 of the funds subject to paragraph (1) for a fiscal year shall be expended by the
25 State to improve the collection and reporting of strategic surface
26 transportation data to provide critical information about the extent, condition,
27 use, performance, and financing of the Nation’s highways (including
28 intermodal connectors) for passenger and freight movement.

29 “(B) WAIVERS.--The Secretary may waive the application of
30 subparagraph (A) with respect to a State for a fiscal year if the State certifies
31 to the Secretary for the fiscal year that the State is collecting and reporting

1 strategic data consistent with quality assurance guidelines developed
2 cooperatively with the States and the Secretary approves such certification. If
3 such waiver is approved, the funds may be used for the activities described in
4 paragraph (1) of this subsection.

5 “(4) FEDERAL SHARE.--The Federal share of the cost of a project carried
6 out using funds subject to paragraph (1) shall be matched in accordance with section
7 120(b) unless the Secretary determines that the interests of the Federal-aid highway
8 program would be best served without such matching.

9 “(5) ADMINISTRATION OF SUMS.--Funds subject to paragraph (1) shall be
10 combined and administered by the Secretary as a single fund and shall be available
11 for obligation for the same period as funds apportioned under section 104(b)(1).”.

12 **SEC.1504. CRITICAL REAL PROPERTY ACQUISITION.**

13 Section 108 of title 23, United States Code, is amended by adding at the end the
14 following:

15 “(d) CRITICAL REAL PROPERTY ACQUISITION.--

16 “(1) Subject to paragraph (2), funds apportioned to a State under this title
17 may be used to participate in the payment of costs incurred in the acquisition of
18 real property that is deemed critical, as determined under paragraph (2), for any
19 project proposed for funding under this title, prior to the completion of any
20 required environmental reviews for property acquisition.

21 “(2) The Federal share payable of the costs described in paragraph (1)
22 shall be eligible for reimbursement out of funds apportioned to a State under this
23 title if, prior to acquisition, the State demonstrates to the Secretary, and the
24 Secretary determines, that the property is offered for sale on the open market, that
25 the State will comply fully with the Uniform Relocation Assistance and Real
26 Property Acquisition Policies Act in acquiring the property, and that immediate
27 acquisition of the property is critical because either:

28 “(A) normal appraisal techniques show that the property’s value is
29 increasing significantly;

30 “(B) there is an imminent threat of development or redevelopment
31 of the property; or

1 “(C) the property is necessary for the implementation of the goals
2 as stated in the project proposal.

3 “(3) An acquisition undertaken pursuant to this section shall be
4 considered to be an exempt project under section 176 of the Clean Air Act and its
5 implementing regulations.

6 “(4) No project development activity may be undertaken on property
7 acquired in accordance with paragraph (2) until any required environmental
8 reviews for the project have been completed.

9 “(5) The number of critical acquisitions associated with a project shall be
10 limited and shall not affect the consideration of project alternatives during the
11 environmental review process.

12 “(6) Section 156 (c) of this title shall not apply to the sale, use or lease of
13 any property acquired in accordance with paragraph (2).”.

14 **SEC. 1505. PLANNING CAPACITY BUILDING INITIATIVE.**

15 Section 104 of title 23, United States Code, is amended by inserting after
16 subsection (i), as added by this Act, the following:

17 “(j) PLANNING CAPACITY BUILDING INITIATIVE.—

18 “(1) IN GENERAL.--The Secretary shall establish a planning capacity
19 building initiative to support enhancements in transportation planning, in order to--

20 “(A) strengthen metropolitan and statewide transportation planning under
21 chapter 52 of title 49;

22 “(B) enhance tribal capacity to conduct joint transportation planning under
23 Chapter 2 of this title; and

24 “(C) participate in the metropolitan and statewide transportation planning
25 programs under chapter 52 of title 49.

26 “(2) PRIORITY.--The Secretary shall give priority to planning practices and
27 processes that support homeland security planning, performance based planning,
28 safety planning, operations planning, freight planning, and integration of environment
29 and planning.

30 “(3) USE OF FUNDS.--Funds authorized for this program may be used for
31 research, program development, information collection and dissemination, and

1 technical assistance. The Secretary may use these funds independently or make
2 grants to, or enter into contracts, cooperative agreements, and other transactions, with
3 a Federal agency, State agency, local agency, Federally recognized Indian tribal
4 government or tribal consortium, authority, association, nonprofit or for-profit
5 corporation, or institution of higher education, to carry out the purposes of this
6 subsection.

7 “(4) SET-ASIDE.--On October 1 of each fiscal year, the Secretary, after
8 making the deductions authorized by subsections (a) and (f) of section 104 of this
9 title, shall set aside \$20,000,000 of the remaining funds authorized for the Surface
10 Transportation Program to carry out the requirements of this subsection.

11 “(5) FEDERAL SHARE.--The Federal share of the cost of an activity carried
12 out using such funds shall be up to 100 percent, and such funds shall remain available
13 until expended.

14 “(6) ADMINISTRATION.--This initiative shall be administered by the
15 Federal Highway Administration in cooperation with the Federal Transit
16 Administration.”.

17
18 **Subtitle F. Program Efficiencies and Improvements - Environment**

19
20 **SEC. 1601. CONGESTION MITIGATION AND AIR QUALITY**
21 **IMPROVEMENT PROGRAM.**

22 (a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is
23 amended—

24 (1) in the first paragraph, by inserting “and, the project or program will
25 reduce emissions to contribute to the attainment or maintenance of the National
26 Ambient Air Quality Standard for which the area is or was designated
27 nonattainment,” after “December 31, 1997,”;

28 (2) in subsection (1)(A), by striking “(other than clause (xvi) of such
29 section)”;

1 (3) in paragraph (1)(A)(ii), by inserting "by providing new or enhanced
2 transportation facilities or services to further reduce emissions" after "area";
3 (4) in paragraph (1)(B), by inserting "or" at the end after "section;";
4 (5) in paragraph (2), by inserting "or program" after "and the project", and
5 by striking "have air quality benefits;" and inserting "reduce emissions; or";
6 (6) in paragraph (3), by--
7 (A) inserting "if" after "(3)";
8 (B) striking "contribute to the attainment of a national ambient air
9 quality standard" and inserting "reduce emissions";
10 (C) striking the comma after "traveled" and inserting "or"; and
11 (D) inserting "through technological improvements such as anti-
12 idling equipment and diesel retrofits for trucks, school buses, transit buses
13 and other vehicles" after "consumption,";
14 (7) in paragraph (4), by inserting "if the project or program is" after "(4)",
15 and by striking "contribute to the attainment of a national ambient air quality
16 standard" and inserting "reduce emissions";
17 (8) in paragraph (5), by striking "that are eligible for assistance under this
18 section on the day before the date of enactment of this paragraph" and inserting
19 "that will reduce emissions"; and
20 (9) in the final unnumbered paragraph, by striking the second sentence.

21 (b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of
22 such title is amended in paragraphs (1) and (2) by inserting "OR MAINTENANCE" after
23 "NONATTAINMENT" in the heading of each paragraph.

24 (c) SELECTION OF PROJECTS.—Section 149 of such title is amended by
25 adding at the end the following new paragraph:

26 “(f) INTERAGENCY CONSULTATION.--The Secretary shall encourage States
27 and metropolitan planning organizations to consult with State and local air quality
28 agencies in nonattainment and maintenance areas on the estimated emissions reductions
29 from proposed congestion mitigation and air quality improvement programs and
30 projects.”.

1 (d) EVALUATION AND ASSESSMENT OF PROJECTS.—Section 149 of such
2 title is amended by adding at the end the following new paragraph:

3 "(g) EVALUATION AND ASSESSMENT OF PROJECTS.—

4 "(1) EVALUATION AND ASSESSMENT.—The Secretary, in consultation
5 with the Administrator of the Environmental Protection Agency, shall evaluate
6 and assess a representative sample of projects funded under the Congestion
7 Mitigation and Air Quality Improvement Program for their actual impact on
8 emissions, and congestion levels and to assure effective program implementation.
9 Using appropriate assessments of CMAQ-funded projects, and results from other
10 research, the Secretary shall maintain a cumulative database on these impacts for
11 broad dissemination.

12 "(2) FUNDING.—Funds set aside under section 104(o) of this title shall
13 be available to carry out this subsection."

14 (e) FUNDING FOR EVALUATION AND ASSESSMENT OF PROJECTS.—
15 Section 104 of such title is amended by adding at the end the following new subsection:

16 "(o) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT
17 PROGRAM EVALUATION AND ASSESSMENT OF PROJECTS.—Before making
18 apportionments under subsection (b)(2) of this section for a fiscal year, the Secretary
19 shall deduct 0.5 percent from the amount to be apportioned for such fiscal year for the
20 purpose of carrying out the requirements of section 149(g) of this title."

21 (f) APPORTIONMENTS.—Section 104(b) of such title 23 is amended—

22 (1) in paragraph (2)(B), by striking "or" after "ozone" and inserting a
23 comma, and by inserting “, or fine particulate matter (PM-2.5)” after “carbon
24 monoxide”;

25 (2) by amending paragraph (2)(B) (i) to read as follows:

26 "(i) 1.0 if at the time of the apportionment, the area is a
27 maintenance area;"

28 (3) in paragraph (2)(B)(vi), by striking "or" after the semicolon;

29 (4) in paragraph (2)(B)(vii), by inserting "for ozone" after "maintenance
30 area", and striking "for ozone" after "section 149(b)" and inserting "or for PM-
31 2.5";

1 (5) by adding at the end of paragraph (2)(B) two new clauses to read as
2 follows:

3 “(viii) 1.0 if, at the time of apportionment, any county, not
4 designated as a nonattainment or maintenance area under the 1-
5 hour ozone standard, is designated as nonattainment under the 8-
6 hour ozone standard; or

7 “(ix) 1.2 if, at the time of apportionment, the area is not a
8 nonattainment or maintenance area as described in section 149(b)
9 for ozone or carbon monoxide, but is an area designated
10 nonattainment under the PM-2.5 standard.”;

11 (6) by amending paragraph (2)(C) to read as follows:

12 “(C) ADDITIONAL ADJUSTMENT FOR CARBON
13 MONOXIDE AREAS.—If, in addition to being designated as a
14 nonattainment or maintenance area for ozone as described in section
15 149(b), any county within the area was also classified under subpart 3 of
16 part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment or
17 maintenance area described in section 149(b) for carbon monoxide, the
18 weighted nonattainment or maintenance area population of the county, as
19 determined under clauses (i) through (vi) of subparagraph (B), shall be
20 further multiplied by a factor of 1.2.”; and

21 (7) by redesignating paragraphs (2)(D) and (2)(E) as (2)(E) and (2)(F)
22 and inserting after paragraph (2)(C) a new paragraph (2)(D) to read as follows:

23 “(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in
24 addition to being designated as a nonattainment or maintenance area for ozone,
25 carbon monoxide or both as described in section 149(b), any county within the
26 area was also designated under the PM-2.5 standard as a nonattainment or
27 maintenance area, the weighted nonattainment or maintenance area population of
28 those counties shall be further multiplied by a factor of 1.2.”.

29 **SEC. 1602. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT**
30 **DECISIONMAKING.**

31 (a) POLICY AND PURPOSE.—

1 (1) POLICY.—The Enlibra principles, as initially developed by the Western
2 Governors Association and adopted by the National Governors Association, represent a
3 sound basis for interaction among the Federal, State, local governments, and tribes on
4 environmental matters and should be followed to the maximum extent practicable in the
5 development of highway construction and public transit improvements. These principles
6 are:

- 7 (A) Assign responsibilities at the right level.
- 8 (B) Use collaborative processes to break down barriers and find solutions.
- 9 (C) Move to a performance-based system.
- 10 (D) Separate subjective choices from objective data gathering.
- 11 (E) Pursue economic incentives whenever appropriate.
- 12 (F) Ensure environmental understanding.
- 13 (G) Make sure environmental decisions are fully informed.
- 14 (H) Use appropriate geographic boundaries for environmental problems.

15 (2) PURPOSE.--The purpose of this section is to reduce delays in the delivery of
16 highway construction and public transit projects arising from the environmental review
17 process, while continuing to ensure the protection of the human and natural environment.

18 (b) COORDINATED ENVIRONMENTAL REVIEW PROCESS.--

19 (1) DEVELOPMENT AND IMPLEMENTATION.--The Secretary shall
20 develop and implement a coordinated environmental review process for highway
21 construction and public transit projects that require--

22 (A) the preparation of an environmental impact statement or
23 environmental assessment under the National Environmental Policy Act of 1969
24 (42 U.S.C. 4321 et seq.), except that the Secretary may decide not to apply this
25 section to the preparation of an environmental assessment under such Act; or

26 (B) the conduct of any other environmental review or analysis, rendering
27 of an opinion, or issuance of an environmental permit, license, or approval under
28 Federal law.

29 (2) MEMORANDUM OF UNDERSTANDING.--

30 (A) IN GENERAL.--The coordinated environmental review process may
31 be specified for a particular project, class of projects, or program and shall ensure

1 that, whenever practicable (as specified in this section), all environmental
2 reviews, analyses, opinions, and any permits, licenses, or approvals that must be
3 issued or made by any Federal agency for the project concerned shall be
4 conducted concurrently and completed within a cooperatively determined time
5 period. Such process for a project, class of projects, or program may be
6 incorporated into a memorandum of understanding between the Department of
7 Transportation and affected Federal agencies (and, where appropriate, State and
8 local agencies and Federally recognized tribes).

9 (B) ESTABLISHMENT OF TIME PERIODS.--In establishing the time
10 period referred to in subparagraph (A), and any time periods for review within
11 such period, the Department and all such agencies shall take into account their
12 respective resources and statutory commitments.

13 (c) ELEMENTS OF COORDINATED ENVIRONMENTAL REVIEW
14 PROCESS.--For each project, the coordinated environmental review process established
15 under this section shall provide, at a minimum, for the following elements:

16 (1) FEDERAL AGENCY IDENTIFICATION.-- The Secretary shall, at the
17 earliest possible time, identify all potential Federal agencies that--

18 (A) have jurisdiction by law over or special expertise related to
19 environmental-related issues that may be affected by the project and the analysis
20 of which would be part of any environmental document required by the National
21 Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

22 (B) may be required by Federal law to independently--

23 (i) conduct an environmental-related review or analysis for the project;

24 (ii) determine whether to issue a permit, license, or approval for the
25 project; or

26 (iii) render an opinion on the environmental impact of the project.

27 (2) TIME LIMITATIONS AND CONCURRENT REVIEW.-- If requested by
28 the project sponsor, the Secretary and the head of each Federal agency identified
29 under paragraph (1)—

30 (A)(i) shall jointly develop and establish time periods for review for--

1 (I) all Federal agency comments with respect to any
2 environmental documents required by the National Environmental
3 Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the project; and

4 (II) all other independent Federal agency environmental
5 analyses, reviews, opinions, and decisions on any permits, licenses,
6 and approvals that must be issued or made for the project; such that
7 each such Federal agency's review shall be undertaken and
8 completed within such established time periods for review; or
9 (ii) may enter into an agreement to establish such time periods for
10 review with respect to a class of projects or programs; and

11 (B) shall ensure, in establishing such time periods for review, that the
12 conduct of any such analysis or review, rendering of such opinion, and the
13 issuance of such decision is undertaken concurrently with all other environmental
14 reviews for the project, including the reviews required by the National
15 Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); except that such
16 review may not be concurrent if the affected Federal agency can demonstrate that
17 such concurrent review would result in a significant adverse impact to the
18 environment or substantively alter the operation of Federal law or would not be
19 possible without information developed as part of the environmental review
20 process.

21 (3) FACTORS TO BE CONSIDERED.-- Time periods for review established
22 under this section shall be consistent with the time periods established by the Council
23 on Environmental Quality under sections 1501.8 and 1506.10 of title 40, Code of
24 Federal Regulations.

25 (4) EXTENSIONS.-- The Secretary shall extend any time periods for review
26 under this section if, upon good cause shown, the Secretary and any Federal agency
27 concerned determine that additional time for analysis and review is needed. Any
28 memorandum of understanding shall be modified to incorporate any mutually agreed-
29 upon extensions.

30 (d) CLARIFICATION REGARDING ENVIRONMENTAL IMPACT
31 STATEMENTS PREPARED BY STATE AND LOCAL TRANSPORTATION

1 AGENCIES.—Any project sponsor that is a State or local governmental entity eligible to
2 receive funds under this Act, chapter I of title 23, United States Code; or chapter 53 of
3 title 49, United States Code, may, at the discretion of the Secretary, serve as a joint lead
4 agency with the Department for purposes of preparing any environmental document
5 under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, et
6 seq.), and may prepare any such environmental documents required in support of any
7 action or approval by the Secretary, provided that the Department furnishes guidance in
8 such preparation and independently evaluates such document, and provided that the
9 document is approved and adopted by the Secretary prior to the Secretary taking any
10 subsequent action or making any approval based on such document, whether or not the
11 Secretary’s action or approval results in Federal funding. The Secretary shall ensure that
12 the project sponsor complies with all design and mitigation commitments made jointly by
13 the Secretary and the project sponsor in such environmental document, or that the
14 document is appropriately supplemented if project changes become necessary. Any such
15 environmental document prepared in accordance with this subsection may be adopted or
16 used by any Federal agency making any approval to the same extent that such Federal
17 agency could adopt or use a document prepared by another Federal agency.

18 (e) DISPUTE RESOLUTION.--When the Secretary determines that a Federal agency
19 which is subject to a time period under this section for its environmental review has
20 failed to complete its review, analysis, opinion, or decision on issuing any permit, license,
21 or approval within the established time period or within any agreed-upon extension to
22 such time period, the Secretary may, after notice and consultation with such agency,
23 close the record on the matter before the Secretary. If the Secretary finds, after timely
24 compliance with this section, that an environmental issue related to the project over
25 which an affected Federal agency has jurisdiction under Federal law has not been
26 resolved, the Secretary and the head of the Federal agency shall resolve the matter not
27 later than 30 days after the date of the finding by the Secretary. The dispute resolution
28 procedures established pursuant to this subsection may be initiated by the Secretary or by
29 the Governor of any State in which a highway construction or public transit project is
30 located, or by the head of any Federal agency subject to the time period under this
31 subsection.

1 (f) PARTICIPATION OF STATE AGENCIES.--For any project eligible for
2 assistance under chapter 1 of title 23, United States Code, a State, under State law, may
3 require that all State agencies that have jurisdiction by State or Federal law over
4 environmental-related issues that may be affected by the project, or that are required to
5 issue any environmental-related reviews, analyses, opinions, or determinations on issuing
6 any permits, licenses, or approvals for the project, be subject to the coordinated
7 environmental review process established under this section unless the Secretary
8 determines that a State agency's participation would not be in the public interest. If a
9 State wishes to participate in the review process, the State must require all such State
10 agencies with jurisdiction by law to be subject to and comply with the review process to
11 the same extent as a Federal agency.

12 (g) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.--

13 (1) IN GENERAL.-- The Secretary may approve a request by a State to
14 provide funds made available under chapter 1 of title 23, United States Code, or
15 for a public transit project made available under chapter 53 of title 49, United
16 States Code, to the State for the project, class of projects, or program subject to
17 the coordinated environmental review process established under this section, to
18 affected Federal agencies, including the Department of Transportation, to State
19 agencies participating in the coordinated environmental review process, and to
20 Federally recognized tribes, to provide the resources necessary to meet any time
21 limits established under this section. The Secretary also may use funds made
22 available under section 204 of title 23, United States Code, for the purposes
23 specified under this subsection.

24 (2) AMOUNTS.--Such requests under paragraph (1) shall be approved
25 only--

26 (A) for the additional amounts that the Secretary determines are
27 necessary for the affected Federal agencies to meet the time limits for
28 environmental review; and

29 (B) if such time limits are less than the customary time necessary
30 for such review.

31 (h) JUDICIAL REVIEW AND SAVINGS CLAUSE.--

1 (1) JUDICIAL REVIEW.--Except as set forth under subsection (i), nothing in
2 this section shall affect the reviewability of any final Federal agency action in a court
3 of the United States.

4 (2) SAVINGS CLAUSE.-- Nothing in this section shall affect the
5 applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et
6 seq.) or any other Federal environmental statute or affect the responsibility of any
7 Federal officer to comply with or enforce any such statute.

8 (i) LIMITATIONS ON CLAIMS. — Notwithstanding any other provision of
9 law, a claim arising under Federal law seeking judicial review of a permit, license, or
10 approval issued by a Federal agency for a highway construction or public transit project
11 shall be barred unless it is filed within one hundred eighty days after the permit, license,
12 or approval is final pursuant to the statute under which the agency action is taken, unless
13 a shorter time is specified in the Federal law pursuant to which judicial review is allowed.
14 Nothing in this subsection shall create a right to judicial review or place any limit on
15 filing a claim that a person has violated the terms of a permit, license, or approval.

16 (j) REPEAL.--Section 1309 of the Transportation Equity Act for the 21st Century
17 (Public Law 105-178; 112 Stat. 232; June 9, 1998) is repealed.

18 **SEC. 1603. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL**
19 **EXCLUSIONS.**

20 (a) GENERAL.--Section 138 of title 23, United States Code, is repealed and the
21 following new section is inserted::

22 **§ 138. Assumption of responsibility for categorical exclusions**

23 “(a) CATEGORICAL EXCLUSION DETERMINATIONS.--Upon mutual
24 agreement, the Secretary may assign and a State may assume responsibility for
25 determining whether certain designated activities are included within classes of action
26 identified in regulation by the Secretary that are categorically excluded from
27 requirements for environmental assessments or environmental impact statements pursuant
28 to regulations promulgated by the Council on Environmental Quality, or other successor
29 law or regulation. Such determinations shall be made by a State pursuant to criteria
30 established by the Secretary and only for types of activities specifically designated by the

1 Secretary. Such criteria shall include provision for public availability of information
2 consistent with the Freedom of Information Act (5 U.S.C. 552).

3 “(b) OTHER APPLICABLE FEDERAL LAWS.--Upon mutual agreement, the
4 Secretary may assign and the State may assume some or all of the Department’s
5 responsibilities for environmental review, consultation, or other related actions required
6 under any Federal law applicable to activities that are classified by the Secretary as
7 categorical exclusions, with the exception of government-to-government consultation
8 with Indian tribes, if the State also assumes decision-making authority under this section.
9 The State shall assume this responsibility subject to the same procedural and substantive
10 requirements as would be required if that responsibility was carried out by the
11 Department. When a State assumes such responsibility under a Federal law, it shall be
12 solely responsible and solely liable for complying with and carrying out that law in lieu
13 of the Department.

14 “(c) AGREEMENTS.--The Secretary and the State shall enter into a
15 memorandum of understanding setting forth the responsibilities to be assigned under this
16 section and the terms and conditions under which such assignments are to be made. Such
17 memorandums of understanding shall be established for periods of no more than three
18 years. In the memorandum of understanding the State shall consent to accept the
19 jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any
20 responsibility of the Secretary it may assume. The Secretary shall monitor the State
21 department of transportation's compliance with the memorandum of understanding as
22 well as the effectiveness of the delegation, and will take into account the State's
23 performance in deciding whether and under what conditions to renew a memorandum of
24 understanding.

25 “(d) TERMINATION.--The Secretary may terminate any assumption of
26 responsibility under this section upon a determination that a State is not adequately
27 carrying out its assigned responsibilities.

28 “(e) STATE SUBJECT TO FEDERAL LAWS.--For purposes of assuming the
29 Secretary’s responsibilities under this section, the State agency signing the agreement in
30 subsection (c) is deemed to be a Federal agency to the extent the State is carrying out the

1 Secretary's responsibilities under the National Environmental Policy Act, under this title,
2 and under any other Federal law."

3 (b) CONFORMING AMENDMENT.—The analysis of chapter 1 of title 23 is
4 amended by striking "Preservation of parklands" in the item relating to section 138 and
5 inserting "Assumption of responsibility for categorical exclusions."

6 **SEC. 1604. "SECTION 4(f)" POLICY ON LANDS, WILDLIFE AND**
7 **WATERFOWL REFUGES, AND HISTORIC SITES.**

8 Section 303 of title 49, United States Code, is amended to read as follows:

9 **"§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites**

10 "(a) It is the policy of the United States Government that special effort should be
11 made to preserve the natural beauty of the countryside and public park and recreation
12 lands, wildlife and waterfowl refuges, and historic sites.

13 "(b) The Secretary of Transportation shall cooperate and consult, when
14 appropriate, with the Secretaries of the Interior, Housing and Urban Development, and
15 Agriculture, and with the States, in developing transportation plans and programs that
16 include measures to maintain or enhance the natural beauty of lands crossed by
17 transportation activities or facilities.

18 "(c)(1) The Secretary of Transportation may approve a transportation program or
19 project requiring the use of publicly owned land of a public park, recreation area, or
20 wildlife and waterfowl refuge of national, State, or local significance, or land of a historic
21 site of national, State, or local significance (as determined by the Federal, State, or local
22 officials having jurisdiction over the park, area, refuge or site) only if--

23 "(A) there is no feasible and prudent alternative to using that land, and

24 "(B) the program or project includes all possible planning to minimize
25 harm to the park, recreation area, wildlife and waterfowl refuge, or historic site
26 resulting from the use.

27 "(2) In making approvals under this subsection, the Secretary shall apply the
28 following standards:

29 "(A) The Secretary may eliminate an alternative as infeasible if the
30 Secretary finds that the alternative cannot be implemented as a matter of sound
31 engineering.

1 "(B) The Secretary shall consider the following when determining whether
2 it would be prudent to avoid the use of land of a resource subject to preservation
3 under this section:

4 "(i) The relative significance of the land of the resource being
5 protected.

6 "(ii) The views of the official or officials with jurisdiction over the
7 land.

8 "(iii) The relative severity of the adverse effects on the protected
9 activities, attributes, or features that qualify a resource for
10 protection.

11 "(iv) The ability to mitigate adverse effects.

12 "(v) The magnitude of the adverse effects that would result from
13 the selection of an alternative that avoids the use of the land of the
14 resource.

15 "(C) A mitigation measure or mitigation alternative under paragraph
16 (c)(1)(B) of this section is possible if it is feasible and prudent. In evaluating the
17 feasibility and prudence of a mitigation measure or mitigation alternative under
18 paragraph (c)(1)(B) of this section, the Secretary shall be governed by the
19 standards of paragraphs (c)(2)(A) and (B) of this subsection.

20 "(d) The requirements of this section do not apply to--

21 "(1) a project for a park road, parkway, or refuge road under section 204
22 of title 23; or

23 "(2) a highway project on land administered by an agency of the Federal
24 government, when the purpose of the project is to serve or enhance the values for
25 which the land would otherwise be protected under this section, as jointly
26 determined by the Secretary of Transportation and the head of the appropriate
27 Federal land managing agency.

28 "(e) The requirements of this section are deemed to be satisfied where the
29 treatment of an historic site (other than a National Historic Landmark) has been agreed
30 upon in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C.
31 470f). The Secretary, in consultation with the Advisory Council on Historic Preservation,

1 shall develop administrative procedures to review the implementation of this subsection
2 to ensure that the objectives of the National Historic Preservation Act are being met.

3 "(f)(1) The Secretary may approve a request by a State to provide funds made
4 available under chapter 1 of title 23, United States Code, to a State historic preservation
5 office, Tribal historic preservation office, or to the Advisory Council on Historic
6 Preservation to provide the resources necessary to expedite the historic preservation
7 review and consultation process under section 303 of title 49 and under section 470f of
8 title 16, United States Code.

9 "(2) The Secretary shall encourage States to provide such funding to State historic
10 preservation officers, Tribal historic preservation officers or the Advisory Council on
11 Historic Preservation where the investment of such funds will accelerate completion of a
12 project or classes of projects or programs by reducing delays in historic preservation
13 review and consultation.

14 "(3) Such requests under paragraph (1) shall be approved only for the additional
15 amounts that the Secretary determines are necessary for a State historic preservation
16 office, Tribal historic preservation office, or the Advisory Council on Historic
17 Preservation to expedite the review and consultation process and only where the
18 Secretary determines that such additional amounts will permit completion of the historic
19 preservation process in less than the time customarily required for such process."

20 **SEC. 1605. NATIONAL SCENIC BYWAYS PROGRAM.**

21 (a) IN GENERAL.-- Section 162 of title 23, United States Code, is amended--

22 (1) in subsection (a)(1), by inserting a comma after "Byways" and by
23 striking "or All- American Roads" and inserting "All- American Roads, or one of
24 America's Byways";

25 (2) in subsection (b)(1)(A), by inserting a comma after "Byways" and by
26 striking "or All- American Roads," and inserting "All- American Roads, or one of
27 America's Byways,";

28 (3) in subsection (b)(2)(A), by inserting a comma after "Byway" and by
29 striking "or All- American Road" and inserting "All- American Road, or one of
30 America's Byways";

1 (4) in subsection (b)(2)(B), by inserting a comma after “Byway” and by
2 striking “or All-American Road” and inserting “All-American Road, or one of
3 America’s Byways”; and

4 (5) in subsection (c)(4), by striking “passing lane.”.

5 (b) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND
6 PROMOTION.--Section 162 of such title is further amended—

7 (1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and
8 (g), respectively;

9 (2) by inserting after subsection (c) the following new subsection:

10 “(d) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND
11 PROMOTION.--

12 “(1) IN GENERAL.--The Secretary may carry out research, technical
13 assistance, marketing, and promotion with respect to State scenic byways,
14 National Scenic Byways, All-American Roads, or America’s Byways.

15 “(2) COOPERATION, GRANTS, AND CONTRACTS.--The Secretary
16 may make grants to or enter into contracts, cooperative agreements, and other
17 transactions with any Federal agency, State agency, authority, association,
18 institution, for-profit or nonprofit corporation, organization, foreign country, or
19 person, including the center for national scenic byways in Duluth, Minnesota, to
20 carry out the provisions of this subsection.

21 “(3) FUNDS.--The Secretary may use funds made available for the
22 National Scenic Byways Program to carry out projects and activities under this
23 subsection.

24 “(4) PRIORITY.--The Secretary shall give priority to partnerships that
25 leverage private, Federal , or other public funds for research, technical assistance,
26 marketing and promotion.”; and

27 (3) by adding the following at the end of subsection (g):

28 “The Federal share of the cost of projects or activities under subsection (d) may be up to
29 100 percent.”.

30 **SEC. 1606. RECREATIONAL TRAILS PROGRAM.**

1 (a) RECREATIONAL TRAILS PROGRAM FORMULA—Section 104(h)(1) of
2 title 23, United States Code, is amended by striking “research and technical assistance
3 under the recreational trails program and for the administration of the National Recrea-
4 tional Trails Advisory Committee” and inserting “research, technical assistance, and
5 training under the recreational trails program”.

6 (b) RECREATIONAL TRAILS PROGRAM ADMINISTRATION.—Section 206
7 of title 23, United States Code, is amended—

8 (1) by striking subsection (c) and inserting the following:

9 “(c) STATE RESPONSIBILITIES.—

10 “(1) ELIGIBILITY.—To be eligible for apportionments under this
11 section—

12 “(A) the Governor of the State shall designate the State agency or
13 agencies that will be responsible for administering apportionments made
14 to the State under this section; and

15 “(B) the State shall establish a State recreational trail committee
16 that—

17 “(i) has not less than 30 percent of its voting membership
18 representing nonmotorized recreational trail users,

19 “(ii) has not less than 30 percent of its voting membership
20 representing motorized recreational trail users,

21 “(iii) must meet not less than once per Federal fiscal year in
22 a publicly announced public meeting, and

23 “(iv) must be used to develop statewide trail program
24 policy and to rate, rank, and recommend recreational trails
25 program projects for funding.

26 “(2) OBLIGATION REQUIREMENT.--If a State does not meet the
27 committee requirements within a fiscal year, it is not eligible for an
28 apportionment in the following fiscal year.”;

29 (2) by striking subsection (d)(2) and inserting the following:

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

- 1 “(A) maintenance and restoration of existing recreational trails;
- 2 “(B) development and rehabilitation of trailside and trailhead
- 3 facilities and trail linkages for recreational trails;
- 4 “(C) purchase and lease of recreational trail construction and
- 5 maintenance equipment;
- 6 “(D) construction of new recreational trails, except that, in the case
- 7 of new recreational trails crossing Federal lands, construction of the trails
- 8 shall be—
- 9 “(i) permissible under other law;
- 10 “(ii) necessary and recommended by a statewide
- 11 comprehensive outdoor recreation plan that is required by the Land
- 12 and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et
- 13 seq.) and that is in effect;
- 14 “(iii) approved by the administering agency of the State
- 15 designated under subsection (c)(1)(A); and
- 16 “(iv) approved by each Federal agency having jurisdiction
- 17 over the affected lands under such terms and conditions as the head
- 18 of the Federal agency determines to be appropriate, except that the
- 19 approval shall be contingent on compliance by the Federal agency
- 20 with all applicable laws, including the National Environmental
- 21 Policy Act of 1969 (42 U.S.C. 4321 et. seq.), the Forest and
- 22 Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C.
- 23 1600 et. seq.), and the Federal Land Policy and Management Act
- 24 of 1976 (43 U.S.C. 1701 et. seq.);
- 25 “(E) acquisition of easements and fee simple title to property for
- 26 recreational trails or recreational trail corridors;
- 27 “(F) assessment of trail conditions for accessibility and
- 28 maintenance;
- 29 “(G) use of trail crews, youth conservation or service corps, or
- 30 other appropriate means to carry out activities under this section;

1 “(H) operation of educational programs to promote safety and
2 environmental protection as those objectives relate to the use of
3 recreational trails, supporting non-law enforcement trail safety and trail
4 use monitoring patrol programs, and providing trail-related training, but in
5 an amount not to exceed 5 percent of the apportionment made to the State
6 for the fiscal year; and

7 “(I) payment of costs to the State incurred in administering the
8 program, but in an amount not to exceed 7 percent of the apportionment
9 made to the State for the fiscal year to carry out this section.”;

10 (3) by striking subsection (d)(3)(C) and inserting the following:

11 “(C) USE OF YOUTH CONSERVATION OR SERVICE CORPS.—A
12 State shall make available not less than 10 percent of its apportionments for
13 grants, cooperative agreements, or contracts with qualified youth conservation or
14 service corps to perform recreational trails program activities.”;

15 (4) in subsection (d)(3)(D), by striking “(2)(F)” and inserting “(2)(I)”;

16 (5) by amending subsection (f)—

17 (A) in paragraph (1)—

18 (i) by inserting “and the Federal share of the administrative
19 costs of a State” after “project”; and

20 (ii) by striking “not exceed 80 percent” and inserting in its
21 place “be determined in accordance with section 120(b)”;

22 (B) in paragraph (2)(A), by striking “80 percent of” and inserting
23 “the amount determined in accordance with section 120(b) for”;

24 (C) in paragraph (2)(B), by inserting “sponsoring the project” after
25 “Federal agency”;

26 (D) by striking paragraph (5);

27 (E) by redesignating paragraph (4) as paragraph (5), and by
28 striking “80 percent” and inserting in its place “the Federal share as
29 determined in accordance with section 120(b)”;

30 (F) by inserting after paragraph (3)—

1 “(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO
2 MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other
3 provision of law, funds made available under this section may be used toward the
4 non-Federal matching share for other Federal program funds that are—

5 (A) expended in accordance with the requirements of the Federal
6 program relating to activities funded and populations served; and

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

9 (6) by inserting after subsection (h)(1)(B) the following:

10 “(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS
11 INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under
12 subsections (d)(2)(A) through (H) may allow pre-approval planning and environ-
13 mental compliance costs to be credited toward the non-Federal share in accord-
14 ance with subsection (f), limited to costs incurred less than 18 months prior to
15 project approval.”; and

16 (7) by striking paragraph (h)(2) and inserting the following:

17 “(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A
18 project funded under this section is intended to enhance recreational opportunity
19 and is not considered a highway project. Projects funded under this section are
20 not subject to sections 112, 113, 114, 116, 134, 135, 217, or 301 of this title; or
21 section 303 of title 49.”.

22 **SEC. 1607. EXEMPTION OF THE INTERSTATE SYSTEM.**

23 Subsection 103(c) of title 23, United States Code, is amended by inserting the
24 following after paragraph (4):

25 “(5) EXEMPTION OF THE INTERSTATE SYSTEM.--The Interstate Highway
26 System, or any portion thereof, as designated pursuant to subsection 103(c) of this title,
27 shall not be considered an historic site of national, State or local significance for purposes
28 of 49 U.S.C. 303, 16 U.S.C. 470f, or 16. U.S.C. 470h-2 by virtue of being listed as a
29 resource on, or eligible for listing in, the National Register of Historic Places. At the
30 discretion of the Secretary, with the advice of the Department of the Interior, individual

1 elements of the Interstate Highway System may receive the protection of section 106 or
2 section 110 of the National Historic Preservation Act (16 U.S.C. 470f and 470h-2).”.

3 **SEC. 1608. MODIFICATION TO NHS/STP FOR INVASIVE SPECIES,**
4 **WETLANDS, BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.**

5 (a) MODIFICATIONS TO THE NHS FOR INVASIVE SPECIES, WETLANDS,
6 BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.--

7 (1) TECHNICAL CORRECTIONS.-- Section 103 (b)(6) of title 23,
8 United States Code, is amended in subparagraph (M)—

9 (A) by striking “1990” and inserting “2000”; and

10 (B) by striking “101-640” and inserting “106-541”.

11 (2) STATE RESPONSIBILITY.-- Section 103 (b)(6) is further amended
12 in subparagraph (M) by inserting “as determined by the State” after “to the
13 maximum extent practicable”.

14 (3) ELIGIBLE PROJECTS FOR NHS.--Section 103 (b)(6) is further
15 amended by adding at the end the following new subparagraphs:

16 “(Q) Environmental restoration and pollution abatement to
17 minimize or mitigate impacts of any transportation project funded under
18 this title (including the retrofit or construction of storm water treatment
19 systems to meet State and Federal National Pollutant Discharge
20 Elimination System requirements under Section 402 of the Clean Water
21 Act) to address water pollution or environmental degradation caused or
22 contributed to by transportation facilities. When transportation facilities
23 are undergoing reconstruction, rehabilitation, resurfacing, or restoration,
24 the expenditure of funds under this section for any such environmental
25 restoration or pollution abatement project shall not exceed 20 percent of
26 the total cost of the reconstruction, rehabilitation, resurfacing, or
27 restoration project.

28 “(R) In accordance with all applicable Federal law (including
29 applicable Federal regulations), participation in the control of invasive
30 plant species and the establishment of native species related to projects
31 funded under this title, which may include participation in statewide

1 inventories of both invasive and desirable plant species and regional native
2 plant habitat conservation and mitigation, and restoration plans.

3 Contributions to the measures described in the preceding sentence may
4 take place concurrent with or in advance of project construction; except
5 that contributions in advance of project construction may occur only if the
6 efforts are consistent with all applicable requirements of Federal law
7 (including applicable Federal regulations) and State transportation
8 planning processes.

9 “(S) Remediation associated with the construction of a project
10 funded under this title on a brownfield site, as defined in 42 U.S.C. 9601.”.

11 (b) MODIFICATIONS TO THE SURFACE TRANSPORTATION PROGRAM
12 FOR INVASIVE SPECIES, WETLANDS, BROWNFIELDS, AND
13 ENVIRONMENTAL RESTORATION.—

14 (1) TECHNICAL CORRECTIONS.-- Section 133 (b)(11) of title 23, is
15 amended:

16 (A) by striking “1990” and inserting “2000”; and

17 (B) by striking “101-640” and inserting “106-541”;

18 (2) STATE RESPONSIBILITY.-- Section 133 (b)(11) is further amended
19 by inserting “determined by the State” after “to the maximum extent practicable”.

20 (3) ELIGIBLE PROJECTS FOR SURFACE TRANSPORTATION
21 PROGRAM.—

22 (A) ENVIRONMENTAL RESTORATION AND POLLUTION
23 ABATEMENT.--Section 133 of title 23, United States Code, is amended
24 by striking (b)(14) and inserting the following:

25 “(14) Environmental restoration and pollution abatement to minimize or
26 mitigate impacts of any transportation project funded under this title (including
27 the retrofit or construction of storm water treatment systems to meet State and
28 Federal National Pollutant Discharge Elimination System requirements under
29 Section 402 of the Clean Water Act) to address water pollution or environmental
30 degradation caused or contributed to by transportation facilities. When
31 transportation facilities are undergoing reconstruction, rehabilitation, resurfacing,

1 or restoration, the expenditure of funds under this section for any such
2 environmental restoration or pollution abatement project shall not exceed 20
3 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or
4 restoration project.”.

5 (B) INVASIVE SPECIES CONTROL AND BROWNFIELDS

6 REMEDIATION EFFORTS.--Section 133(b) of such title, as amended by
7 this Act, is further amended by adding at the end the following new
8 paragraphs:

9 “(16) In accordance with all applicable Federal law (including
10 regulations), participation in the control of invasive plant species and the
11 establishment of native species related to projects funded under this title, which
12 may include participation in statewide inventories of both invasive and desirable
13 plant species and regional native plant habitat conservation and mitigation, and
14 restoration plans. Contributions to the measures described in the preceding
15 sentence may take place concurrent with or in advance of project construction;
16 except that contributions in advance of project construction may occur only if the
17 efforts are consistent with all applicable requirements of Federal law (including
18 regulations) and State transportation planning processes.

19 “(17) Remediation associated with the construction of a project funded
20 under this title on a brownfield site, as defined in 42 U.S.C. 9601.”.

21 **SEC. 1609. STANDARDS.**

22 (a) IN GENERAL.--Section 109(a) of title 23 of the United States Code is
23 amended by--

24 (1) striking “and” at the end of paragraph (1);

25 (2) striking the period at the end of paragraph (2) and inserting “; and”;

26 and

27 (3) adding the following paragraph at the end of subsection (a):

28 “(3) consider the preservation, historic, scenic, natural environment, and
29 community values.”.

30 (b) CONTEXT SENSITIVE DESIGN.--Section 109 of such title is amended by
31 striking subsection (p) and inserting the following:

1 “(p) CONTEXT SENSITIVE DESIGN.--

2 “(1) The Secretary shall encourage States to design projects funded under
3 title 23 to:

4 “(A) allow for the preservation of environmental, scenic,
5 community, and/or historic values;

6 “(B) ensure safe use of the facility for both passenger and freight
7 movement;

8 “(C) provide for consideration of the context of the locality;

9 “(D) encourage access for other modes of transportation; and

10 “(E) comply with subsection (a).

11 “(2) Notwithstanding subsections (b) and (c), the Secretary may approve a
12 project for the National Highway System if the project is designed to achieve the
13 criteria of subparagraphs (A) through (E).”.

14 **SEC. 1610. USE OF HOV LANES.**

15 Section 102 of title 23, United States Code, is amended by striking subsection (a) and
16 inserting the following:

17 “(a) HIGH OCCUPANCY VEHICLE (HOV) PASSENGER REQUIREMENTS.--

18 “(1) IN GENERAL.--A State transportation department or other responsible
19 local agencies shall establish the occupancy requirements of vehicles operating
20 in HOV facilities; except that no fewer than 2 occupants per vehicle may be required,
21 unless otherwise provided in paragraph (2).

22 “(2) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.--

23 “(A) MOTORCYCLES. - Motorcycles shall not be considered single
24 occupant vehicles and shall be allowed to use HOV facilities, except that upon
25 certification by the responsible agency to the Secretary, the agency may
26 restrict such use by motorcycles if such use would create a safety hazard.

27 “(B) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

28 “(i) Responsible agencies shall have the option of allowing
29 qualifying low emission and energy-efficient vehicles to use HOV
30 facilities if they do not satisfy the established occupancy requirements.

1 “(ii) Responsible agencies that allow qualifying low emission and
2 energy-efficient vehicles to use HOV facilities shall--

3 “(I) establish a program that addresses how such
4 qualifying vehicles are selected and certified;

5 “(II) establish requirements for labeling qualifying
6 vehicles and procedures for enforcing such vehicles;

7 “(III) continuously monitor, evaluate, and report on
8 performance; and

9 “(IV) establish the policies and procedures that will limit
10 or restrict the use of such vehicles as necessary, to ensure that the
11 performance of individual facilities or the entire system does not
12 become seriously degraded.

13 “(iii) As used in this subparagraph, the term “low emission and
14 energy- efficient vehicles” means vehicles that have been certified--

15 “(I) by the Administrator of the Environmental Protection
16 Agency to have a 45-mile-per-gallon or greater fuel economy
17 highway rating; or are defined as an alternative fuel vehicle under
18 section 301(2) of the Energy Policy Act of 1992 (42 U.S.C.
19 13211(2)); and

20 “(II) as meeting Tier II emission level established in
21 regulations prescribed by the Administrator of the Environmental
22 Protection Agency under section 202(i) of the Clean Air Act (42
23 U.S.C. 7521(i)) for that make and model year vehicle.

24 “(C) BICYCLES.--Responsible agencies shall have the option of
25 allowing bicycles on surface street HOV facilities when there is insufficient
26 space within the roadway or public right-of-way to establish and designate a
27 bicycle lane.

28 “(D) TOLLING OF VEHICLES.-- Responsible agencies may permit
29 vehicles, in addition to those vehicles described in paragraphs (A), (B), and
30 (E) that do not satisfy the established occupancy requirements, to use an HOV
31 facility only if they charge such vehicles a toll. The authority of an agency to

1 impose a toll shall be subject to section 129 of this title. Any agency electing
2 to toll such vehicles shall also--

3 “(i) establish a program that addresses how motorists can enroll
4 and participate;

5 “(ii) develop, manage, and maintain a system that will
6 automatically collect the tolls that vehicles must pay;

7 “(iii) continuously monitor, evaluate, and report on performance;

8 “(iv) establish the policies and procedures for varying the toll that
9 is charged to manage the demand to use the subject facilities and enforcing
10 violations; and

11 “(v) establish procedures that will limit or restrict the use of such
12 vehicles as necessary, to ensure that the performance of individual
13 facilities or the entire system does not become seriously degraded.

14 "(E) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.-

15 -

16 "(i) In this subparagraph, the term "designated public
17 transportation vehicles" means vehicles that provide designated
18 public transportation, as defined under section 12141 of title 42,
19 and that are owned or operated by a public entity or that are
20 operating under contract to a public entity.

21 "(ii) Responsible agencies may permit designated public
22 transportation vehicles to use HOV facilities if they do not satisfy
23 the established occupancy requirements.

24 "(iii) Any agency that permits designated public
25 transportation vehicles to use HOV facilities if they do not satisfy
26 the established occupancy requirements shall--

27 "(I) establish requirements for clearly and
28 identifiably labeling vehicles operating under contract to
29 the public entity with the name of the public entity on all
30 sides of the vehicle;

1 "(II) establish the policies and procedures to ensure
2 that vehicles operating under contract to the public entity
3 are in compliance with the labeling requirement under
4 subclause (I) of this clause;

5 "(III) continuously monitor, evaluate, and report on
6 performance; and

7 "(IV) establish the policies and procedures that will
8 limit or restrict the use of such vehicles as necessary, to
9 ensure that the performance of individual facilities or the
10 entire system does not become seriously degraded.

11 "(3) HOV FACILITY MANAGEMENT, OPERATION, AND
12 MONITORING.--Agencies that permit any of the exceptions specified in paragraph
13 (a)(2) shall be responsible for the following:

14 "(A) PERFORMANCE MONITORING, EVALUATION, AND
15 REPORTING.--Responsible agencies shall be required to establish, manage, and
16 support a performance monitoring, evaluation, and reporting program if they
17 permit any of the exceptions specified in paragraph (a)(2). This program shall
18 continuously monitor, assess, and report on the impacts that any of these specific
19 types of allowed vehicles may have on the operation of individual HOV facilities
20 and the entire HOV system.

21 "(B) OPERATION OF HOV FACILITY OR SYSTEM.--Responsible
22 agencies shall limit or discontinue permitting any of the exceptions specified in
23 paragraph (a)(2), if the presence of any of these specific types of allowed vehicles
24 seriously degrades the operation of individual HOV facilities or the entire HOV
25 system. For purposes of this section, "seriously degraded" means that an HOV
26 facility located on a freeway, or similar type of roadway, fails to maintain a
27 minimum average operating speed of at least 45 miles per hour 90 percent of the
28 time over a consecutive six-month period during weekday peak travel periods.
29 For HOV facilities on other types of roadways, the minimum average operating
30 speed, performance threshold, and associated time period shall be established
31 based on the conditions unique to each roadway and agreed to by the responsible

1 agencies.”.

2 **SEC. 1611. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.**

3 (a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

4 (1) in subsection (a), by inserting “pedestrian and” after “safe”;

5 (2) in subsection (e), by striking “bicycles” each time it appears and
6 inserting “pedestrians or bicyclists” in each instance;

7 (3) by striking subsection (f) and inserting the following:

8 “(f) FEDERAL SHARE.—The Federal share of the construction of bicycle
9 transportation facilities and pedestrian walkways and for carrying out nonconstruction
10 projects related to safe pedestrian and bicycle use shall be determined in accordance with
11 section 120(b).”;

12 (4) in subsection (j), by inserting after paragraph (4) the following:

13 “(5) SHARED USE PATH.—The term “shared use path” means a multi-
14 use trail or other path, physically separated from motorized vehicular traffic by an
15 open space or barrier, either within a highway right-of-way or within an
16 independent right-of-way, and usable for transportation purposes. Shared use
17 paths may be used by pedestrians, bicyclists, skaters, equestrians, and other
18 nonmotorized users.”; and

19 (5) by adding after subsection (j) the following:

20 “(k) USER FEES.—At the option of each State, a shared use path funded under
21 this section is not subject to the provisions of 23 U.S.C. 301, provided that the shared use
22 path is not within a highway right-of-way, and the income received from user fees is used
23 for ongoing maintenance and operation of shared use paths within the State.

24 “(l) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

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

28 “(A) operate a national bicycle and pedestrian clearinghouse;

29 “(B) develop information and educational programs; and

30 “(C) disseminate techniques and strategies for improving bicycle
31 and pedestrian safety.

1 “(2) FUNDING.—Funds provided under section 104(p) of this title shall
2 be available to carry out the provisions of this section.

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

7 (b) SET-ASIDE.—Section 104 of title 23, United States Code, is amended by
8 adding, after subsection (o), as added by this Act, the following:

9 “(p) BICYCLE AND PEDESTRIAN SAFETY GRANTS.--On October 1 of each
10 fiscal year for fiscal years 2004 through 2009, the Secretary, after making the deductions
11 authorized by subsections (a) and (f), shall set-aside \$500,000 of the remaining funds
12 authorized to be apportioned under subsection (b)(3) for carrying out the Bicycle and
13 Pedestrian Safety Grants under section 217 of this title.”.

14 **SEC. 1612. TRANSPORTATION, ENERGY, AND ENVIRONMENT.**

15 (a) IN GENERAL.— As part of the National Climate Change Technology
16 Initiative and the Climate Change Research Initiative, the Secretary shall establish and
17 carry out a multimodal energy and climate change program to study the relationship of
18 transportation, energy, and climate change.

19 (b) CONTENTS.—The program to be carried out under this section shall include,
20 but not be limited to, research designed to—

21 (1) identify, develop and evaluate strategies to improve energy efficiency
22 and reduce greenhouse gas emissions from transportation sources; and

23 (2) identify and evaluate the potential effects of climate changes on the
24 nation’s transportation systems, and strategies to address these effects;

25 (c) PROJECT SELECTION.--Activities to be undertaken in this program will be
26 determined by an internal steering committee established by the Secretary of
27 Transportation. This intermodal committee shall include representatives from the Office
28 of the Secretary and operating administrations within the Department of Transportation
29 as designated by the Secretary.

30 (d) GRANTS, COOPERATIVE AGREEMENTS AND CONTRACTS.--The
31 Secretary may carry out this program independently or by making grants to, or entering

1 into contracts, cooperative agreements, and other transactions, with a Federal agency,
2 State agency, local agency, authority, association, nonprofit or for-profit corporation, or
3 institution of higher education.

4 (e) FUNDING.--

5 (1) HIGHWAY ACCOUNT.--

6 (A) FUNDING.--There is authorized to be appropriated from the
7 Highway Trust Fund (other than the Mass Transit Account) to carry out
8 this section \$3,600,000 for fiscal year 2004, \$2,200,000 for fiscal year
9 2005, \$2,200,000 for fiscal year 2006, \$2,200,000for fiscal year 2007,
10 \$2,700,000 for fiscal year 2008, and \$2,700,000 for fiscal year 2009.

11 (B) CONTRACT AUTHORITY.—Funds authorized from the
12 Highway Trust Fund (other than the Mass Transit Account) to carry out
13 this Section shall be available for obligation in the same manner as if the
14 funds were apportioned under Chapter 1 of Title 23, United States Code,
15 except that the Federal share of the cost of a project or activity carried out
16 using such funds shall not exceed 100 percent and such funds shall remain
17 available until expended.

18 (2) MASS TRANSIT ACCOUNT.—

19 (A) FUNDING.--There is authorized to be appropriated from the
20 Mass Transit Account of the Highway Trust Fund to carry out this section
21 \$400,000 for fiscal year 2004, \$300,000 for fiscal year 2005, \$300,000 for
22 fiscal year 2006, \$300,000 for fiscal year 2007, \$300,000 for fiscal year
23 2008, and \$300,000 for fiscal year 2009.

24 (B) CONTRACT AUTHORITY.--A grant or contract that is
25 financed with amounts paid under this subparagraph from the Mass
26 Transit Account is a contractual obligation of the United States
27 Government to pay the Government's share of the cost of the project.

28 (3) AIRPORT AND AIRWAY TRUST FUND.--There is
29 authorized to be appropriated from the Airport and Airway Trust Fund to
30 carry out this section \$500,000 for fiscal year 2005, \$500,000 for fiscal
31 year 2006, and \$500,000 for fiscal year 2007.

1 **SEC. 1613. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-**
2 **WAY.**

3 Section 111 of Title 23 of the United States Code is hereby amended by adding at
4 the end the following:

5 “(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-
6 WAY.--Notwithstanding the prohibition on commercial establishments set forth in
7 subsection (a), any State may permit electrification or other idling reduction facilities and
8 equipment, for use by motor vehicles used for commercial purposes, to be placed in rest
9 and recreation areas, and in safety rest areas, constructed or located on rights-of-way of
10 the Interstate System in such State, and may charge, or permit charges for the use of such
11 facilities. The exclusive purpose of such facilities or technologies shall be to enable
12 operators of such vehicles to turn off their engines while parked and still have heating, air
13 conditioning, electricity, and communication services in the vehicle.”.

14 **SEC.1614. APPROPRIATION FOR TRANSPORTATION PURPOSES OF LANDS**
15 **OR INTEREST IN LANDS OWNED BY THE UNITED STATES.**

16 (a) IN GENERAL.--Section 317 of title 23, United States Code, is amended to
17 read as follows:

18 **“§ 317. Appropriation for transportation purposes of lands or interest in lands**
19 **owned by the United States**

20 "(a) IN GENERAL.--If the Secretary determines that any part of the lands or
21 interests in land owned by the United States are reasonably necessary for any project
22 administered under this title or as a source for materials for such a project, the Secretary
23 is authorized to file with the Secretary of the Department supervising the administration
24 of such lands or interests in lands a description and a map showing the portion of such
25 lands or interests in lands which it is necessary to appropriate. The Secretary of such
26 Department shall have a period of up to four months to review the proposed appropriation
27 and to designate reasonable mitigation measures necessary to protect the adjacent federal
28 lands from adverse environmental impacts, or to certify that the proposed appropriation is
29 contrary to the purposes for which such lands or materials have been reserved. If no such
30 certification is received, the Secretary may appropriate and transfer such lands or
31 interests in lands to the State transportation department, or its nominee, subject to such

1 reasonable mitigation measures designated above. If at any time the need for such lands
2 or materials for transportation purposes shall no longer exist, notice of the fact shall be
3 given by the State transportation department to the Secretary and the Secretary of the
4 Department from which they had been appropriated. Such lands or materials may, at the
5 discretion of the Secretary of the Department from which they had been appropriated or
6 its designee, revert to the United States, under the control of such Secretary, or its
7 designee. Unless otherwise instructed by the Secretary, prior to any such reversion the
8 State transportation department shall restore the land to its former condition.

9 “(b) PRIOR RESTRICTIONS OR ENCUMBRANCES.--Notwithstanding any
10 other provision of law, the acquisition and use of land under this section may proceed
11 irrespective of any prior deed restrictions or other encumbrances that were imposed as a
12 condition on the receipt of Federal funds.”.

13 (b) CONFORMING AMENDMENT.--The analysis for chapter 3 of such title is
14 revised by amending the item relating to section 317 to read as follows:
15 "317. Appropriation for transportation purposes of lands or interest in lands owned by the
16 United States."

17 **SEC. 1615. TOLL PROGRAMS.**

18 (a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION
19 PILOT PROGRAM.--Sec. 1216(b) of the Transportation Equity Act for the 21st Century
20 is amended--

21 (1) in paragraph (1), by striking “that could not otherwise be adequately
22 maintained or functionally improved without the collection of tolls”;

23 (2) in paragraph (3), by striking subparagraph (C) and inserting the
24 following:

25 “(C) An analysis demonstrating that financing the reconstruction or
26 rehabilitation of the facility with the collection of tolls under this pilot
27 program is the most efficient, economical, or expeditious way to advance
28 the project.”; and

29 (3) in paragraph (4),

30 (A) by striking subparagraph (A) and inserting the following:

1 “(A) the State’s analysis showing that financing the reconstruction
2 or rehabilitation of this facility with the collection of tolls under this
3 program is the most efficient, economical, or expeditious way to advance
4 the project is reasonable;”;

5 (B) by striking subparagraph (B) and inserting the following:

6 “(B) the facility needs reconstruction or rehabilitation;”;

7 (C) by striking subparagraph (C); and

8 (D) by redesignating subparagraphs (D) and (E) as subparagraphs
9 (C) and (D), respectively.

10 (b) VARIABLE TOLL PRICING PROGRAM.--

11 (1) ESTABLISHMENT.--The Secretary, notwithstanding sections 129 and
12 301 of title 23, United States Code, may permit a State or public authority to toll
13 any highway, bridge, or tunnel, including facilities on the Interstate System, to
14 manage existing high levels of congestion or reduce emissions in a nonattainment
15 area or maintenance area.

16 (2) BASIC PROGRAM.--The following conditions apply to any variable
17 toll pricing program established under this section:

18 (A) LIMITATION ON USE OF REVENUES.--All toll revenues
19 received from the operation of the toll facility shall be used first for debt
20 service, reasonable return on investment of any private financing, and the
21 costs necessary for proper operation and maintenance of the toll facility
22 (including reconstruction, resurfacing, restoration, and rehabilitation). If
23 the State or public authority certifies annually that the tolled facility is
24 being adequately maintained, then the State or public authority may use
25 any excess toll revenues for projects eligible for Federal assistance under
26 title 23, United States Code.

27 (B) AGREEMENT.--Before the Secretary may permit tolling
28 under this subsection, and for each facility that may be tolled, the
29 Secretary and the State or public authority must enter into an agreement
30 providing for the conditions in subparagraphs (A) and (C) of this
31 paragraph. The agreement shall terminate upon the decision of the State

1 or public authority to discontinue its variable tolling program for that
2 facility. If there is any debt outstanding on the facility at the time the
3 decision is made to discontinue the program, the facility may continue to
4 be tolled in accordance with the terms of the agreement until the debt is
5 retired.

6 (C) REQUIREMENTS.--

7 (i) VARIABLE PRICE REQUIREMENT.--The Secretary
8 shall require, for each facility that may be tolled under this
9 subsection, that the tolls vary in price according to time of day, as
10 appropriate, to manage congestion or to improve air quality.

11 (ii) HOV PASSENGER REQUIREMENTS.--In addition to
12 the exceptions to the high occupancy vehicle passenger
13 requirements established under section 102(a)(2) of title 23, United
14 States Code, a State may permit vehicles with fewer than 2
15 occupants to operate in high occupancy vehicle lanes as part of a
16 variable toll pricing program established under this subsection.

17 (D) LIMITATION ON FEDERAL SHARE.--The Federal share
18 payable for projects on the tolled facility, including projects to install toll
19 collection facilities, shall be a percentage determined by the State but shall
20 not exceed 80 percent.

21 (3) ELIGIBILITY.--To be eligible to participate in the program, a State or
22 public authority shall provide to the Secretary--

23 (A) a description of the congestion or air quality problems sought
24 to be addressed under this program;

25 (B) an identification of the goals sought to be achieved and the
26 performance measures that would be used to gauge the success made
27 toward reaching those goals; and

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

29 (4) DEFINITIONS.--

1 (A) MAINTENANCE AREA.--The term "maintenance area" has
2 the same meaning given the term under section 101 of title 23, United
3 States Code.

4 (B) NONATTAINMENT AREA.--The term "nonattainment area"
5 has the same meaning given the term under section 7501 of title 42,
6 United States Code.

7 (c) REPEAL.-- Section 1012(b) of the Intermodal Surface Transportation
8 Efficiency Act, as amended by section 1216(a) of the Transportation Equity Act for the
9 21st Century, is repealed. Notwithstanding the repeal of section 1012(b), the Secretary
10 shall monitor and allow any value pricing program established under a cooperative
11 agreement in effect on the date of enactment of this Act to continue.

12 **SEC. 1616. OZONE STANDARDS, PARTICULATE MATTER STANDARDS,**
13 **AND REGIONAL HAZE PROGRAM.**

14 (a) TITLE.--The heading of title VI of the Transportation Equity Act for the 21st
15 Century (Public Law 105-178; 112 Stat. 463; June 9, 1998) is amended to read as
16 follows:

17 **“TITLE VI--OZONE STANDARDS, PARTICULATE MATTER**
18 **STANDARDS, AND REGIONAL HAZE PROGRAM”**

19 (b) FINDINGS AND PURPOSE.--Section 6101 of such Act is amended to read
20 as follows:

21 **“§ 6101. FINDINGS AND PURPOSE.**

22
23 "(a) The Congress finds that--

24 "(1) the fine particle (PM2.5) standards promulgated by the Administrator
25 of the Environmental Protection Agency (referred to in this title as
26 “Administrator”) in July 1997 were established to protect the public health and
27 welfare;

28 "(2) there is a continuing need for PM2.5 air quality monitoring data;

29 "(3) with three years of PM2.5 air quality monitoring data for all areas
30 expected to be available by 2003 it is important to move forward to designate

1 areas as attainment or nonattainment and proceed with implementation of these
2 standards;

3 "(4) it will be beneficial to States to develop and submit implementation
4 plans for the PM-2.5 standards and the regional haze program at the same time;
5 and

6 "(5) Western States that participated in the Grand Canyon Visibility
7 Transport Commission should be permitted to submit plans in 2003 to implement
8 recommendations set forth in the Commission's report.

9 "(b) The purposes of this title are--

10 "(1) to ensure the availability of PM2.5 air quality monitoring data;

11 "(2) to establish a deadline for the designation of areas for the PM-2.5
12 standards; and

13 "(3) to ensure that States are able to develop PM2.5 and regional haze
14 implementation plans at the same time for all areas within a State, while
15 continuing to allow nine Western States the option of submitting regional haze
16 plans in 2003 to implement regional haze requirements based on the 1996
17 recommendations of the Grand Canyon Visibility Transport Commission."

18 (c) PARTICULATE MATTER AND REGIONAL HAZE. –

19 (1) The heading of section 6102 of the Transportation Equity Act for the
20 21st Century is amended to read as follows:

21 **“SEC. 6102. PARTICULATE MATTER AND REGIONAL HAZE PROGRAMS.”**

22 (2) Section 6102(c) of such Act is amended to read as follows:

23 “(c)(1) The Governors shall be required to submit designations referred to in
24 section 107(d)(1) of the Clean Air Act (42 U.S.C. 7407(d)(1)) for each area following
25 promulgation of the July 1997 PM2.5 national ambient air quality standard by September
26 30, 2003 based on air quality monitoring data collected in accordance with any applicable
27 Federal reference methods for the relevant areas. Only data from the monitoring network
28 designated in subsection (a) and other Federal reference method PM2.5 monitors shall be
29 considered for such designations. Nothing in the previous sentence shall be construed as
30 affecting the Governor's authority to designate an area initially as nonattainment, and the
31 Administrator's authority to promulgate the designation of an area as nonattainment,

1 under section 107(d)(1) of the Clean Air Act, based on its contribution to ambient air
2 quality in a nearby nonattainment area.

3 "(2)(A) Each State shall submit, for the entire State, the State implementation plan
4 revisions to meet the requirements promulgated by the Administrator under section
5 169B(e)(1) of the Clean Air Act (42 U.S.C. 7492(e)(1)) (hereinafter in this paragraph
6 referred to as 'the regional haze requirements') by 3 years after the date the Administrator
7 promulgates the designations referred to in subsection (d) for such State.

8 "(B) The provisions of subparagraph (A) of this paragraph shall not preclude the
9 implementation of the agreements and recommendations set forth in the Grand Canyon
10 Visibility Transport Commission Report dated June 1996. These provisions shall not
11 preclude the submission of State implementation plan revisions by the States of Arizona,
12 California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, or Wyoming by
13 December 31, 2003, for implementation of the regional haze requirements as they apply
14 to such States. Each of the aforementioned States submitting such plan revisions shall
15 also submit statewide implementation plan revisions, as required under subparagraph (A),
16 to address, as necessary, any additional mandatory Class I Federal areas not addressed by
17 the revisions submitted pursuant to the preceding sentence."

18 (3) Section 169B(e)(2) of the Clean Air Act (42 U.S.C. 7492(e)(2)) is
19 repealed.

20 (4) Section 6102(d) of the Transportation Equity Act for the 21st Century
21 is amended to read as follows:

22 "(d) Notwithstanding any other provision of law, the Administrator shall
23 promulgate the designations referred to in subsection (d) of section 107 of the Clean Air
24 Act for each area of each State for the July 1997 PM-2.5 national ambient air quality
25 standards by December 31, 2004."

26 (d) CONFORMING AMENDMENT.--Section 1(b) of the Transportation Equity
27 Act for the 21st Century is amended in the Table of Contents--

28 (1) in the heading for title VI, by striking "OZONE AND PARTICULATE
29 MATTER STANDARDS" and inserting "OZONE STANDARDS,
30 PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE
31 PROGRAM"; and

1 (2) in the item relating to section 6102, by striking "monitoring program"
2 and inserting "and regional haze programs".

3 **SEC. 1617. INDEMNIFICATION ON CERTAIN RAILBANKED PROJECTS.**

4 Where, pursuant to a final judgment, a Federal court finds the United States liable
5 by operation of section 8(d) the National Trails System Act (enacted by section 208 of
6 Pub. L. 98-11, 97 Stat. 48) (16 U.S.C. 1247(d)), for a taking of property under the Fifth
7 Amendment to the United States Constitution, a State that has received funds, after the
8 date of enactment of this Act, under a Federal-aid highway program established under
9 title 23, United States Code, and that has used a portion of those funds to acquire,
10 develop, maintain or improve a railroad right-of-way that is the subject of the judgment,
11 shall indemnify the United States up to the lesser amount of the judgment awarded
12 (including attorney fees) or the Federal-aid highway program funds received in
13 connection with that railroad right-of-way.

14
15 **Subtitle G--Program Efficiencies and Improvements--Operations**

16
17 **SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT**
18 **AND OPERATIONS.**

19 (a) DEFINITIONS. Section 101(a) of title 23, United States Code, is amended—

20 (1) in paragraph (3)—

21 (A) by inserting “and intermodal operations to enhance security” after
22 “program” in the first sentence; and

23 (B) in subparagraph (G), by striking “traffic control systems,”;

24 (2) in paragraph (18), as redesignated by this Act, by inserting “costs incurred
25 by transportation agencies attributed to operation of technology used to monitor
26 critical transportation infrastructure for security purposes,” after “rent,” and by
27 inserting “transportation systems management and operations and” after “with”;

28 (3) in paragraph (19)(A)(i), as redesignated by this Act, by inserting—

29 (A) “transportation system management and operations, including,” after
30 “for”;

31 (B) “and transportation security” after “installation of traffic”; and

1 (C) “equipment and programs for transportation response to manmade and
2 natural disasters,” after “incident management programs,”;

3 (4) by redesignating paragraphs (39) and (40), as redesignated by this Act, as
4 paragraphs (40) and (41), respectively; and

5 (5) by inserting new paragraph (39) after paragraph (38), as follows:

6 “(39) TRANSPORTATION SYSTEMS MANAGEMENT AND
7 OPERATIONS.—The term “transportation systems management and operations”
8 means an integrated program to optimize the performance of existing infrastructure
9 through the implementation of multi- and intermodal, cross-jurisdictional systems,
10 services, and projects designed to preserve capacity and improve security, safety, and
11 reliability of Federal-aid highways. Transportation systems management and
12 operations includes regional operations collaboration and coordination activities
13 between transportation and public safety agencies, and improvements such as traffic
14 detection and surveillance, arterial management, freeway management, demand
15 management, work zone management, emergency management, electronic toll
16 collection, automated enforcement, traffic incident management, roadway weather
17 management, traveler information services, commercial vehicle operations, traffic
18 control, freight management, and coordination of highway, rail, transit, bicycle, and
19 pedestrian operations.”.

20 (b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT
21 PROGRAM ELIGIBILITY.--Section 149(b)(5) of such title is amended by inserting
22 “improve transportation systems management and operations,” after “intersections,”

23 (c) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b)
24 of such title, as amended by section 1608 of this Act, is further amended by adding at the
25 end the following:

26 “(17) Regional transportation operations collaboration and coordination
27 activities that are associated with regional improvements, such as traffic incident
28 management, technology deployment, emergency management and response, traveler
29 information, and regional congestion relief.”.

1 (d) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.--
2 Chapter 1 of such title, as amended by this Act, is further amended by inserting the
3 following new section after section 164:

4 **“§ 165. Transportation systems management and operations**

5 “(a) AUTHORITY.—To ensure efficient and effective transportation systems
6 management and operations on Federal-aid highways, through collaboration,
7 coordination, and real-time information sharing, at a regional level, between
8 transportation system managers and operators, public safety officials, and the general
9 public, and to manage and operate Federal-aid highways in a coordinated manner to
10 preserve the capacity and maximize the performance of existing highway and transit
11 facilities for travelers and carriers, the Secretary of Transportation may--

12 “(1) encourage transportation system managers, operators, public safety
13 officials, and transportation planners within an urbanized area, who are actively
14 engaged in and responsible for conducting the day-to-day management,
15 operations, public safety, and planning of transportation facilities and services, to
16 collaborate and coordinate on a regional level in a continuous and sustained
17 manner, for improved transportation systems management and operations,
18 including, at a minimum--

19 “(A) developing a regional concept of operations that defines a
20 regional strategy shared by all transportation and public safety participants
21 for how the regions’ systems should be managed, operated, and measured;

22 “(B) sharing of information among operators, service providers, public
23 safety officials, and the general public; and

24 “(C) guiding in a regionally-coordinated manner, the implementation
25 of regional transportation system management and operations initiatives
26 including emergency evacuation and response, traffic incident
27 management, technology deployment, and traveler information systems
28 delivery, in a manner consistent with and integrated into the ongoing
29 Metropolitan and Statewide transportation planning processes and regional
30 intelligent transportation system architecture, if required; and

1 “(2) encourage States to establish a system of basic real-time monitoring
2 capability for the surface transportation system and provide the capability and
3 means to share that data among agencies (highways, transit, public safety),
4 jurisdictions (including states, cities, counties, metropolitan planning
5 organizations), private-sector entities; and the traveling public.

6 “(b) EXECUTION.--To support the successful execution of transportation
7 systems management and operations activities, the Secretary may undertake the
8 following:

9 “(1) Assist and cooperate with other Federal departments and agencies,
10 State and local governments, metropolitan planning organizations, private
11 industry, and other interested parties to improve regional collaboration and real-
12 time information sharing between transportation system managers and operators,
13 public safety officials, emergency managers, and general public to increase
14 security, safety, and reliability of our Federal-aid highways.

15 “(2) Issue, if necessary, new guidance or regulations for the procurement
16 of transportation system management and operations facilities, equipment, and
17 services, including but not limited to equipment procured in preparation for
18 manmade or natural disasters and emergencies, system hardware, software, and
19 software integration services. In developing such guidelines, the Secretary may
20 consider innovative procurement methods that support the timely and streamlined
21 execution of transportation system management and operations programs and
22 projects.

23 “(3) Approve for Federal financial assistance from funds apportioned
24 under section 104(b)(3) of this title support for regional operations collaboration
25 and coordination activities that are associated with regional improvements, such
26 as traffic incident management, technology deployment, emergency management
27 and response, traveler information, and congestion relief.”.

28 “(e) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is
29 amended by inserting after the item relating to section 164 the following:

30 “165. Transportation systems management and operations.”.

1 **SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION**
2 **PROGRAM.**

3 (a) GOALS AND PURPOSES.—

4 (1) GOALS.—The goals of the real-time system management information
5 program are to provide the nationwide capability to monitor, in real-time, the traffic and
6 travel conditions of our nation’s major highways and to widely share that information to
7 improve the security of the surface transportation system, address congestion problems,
8 support improved response to weather events, and facilitate national and regional traveler
9 information.

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

12 (A) establish a nationwide system of basic real-time information for
13 managing and operating our surface transportation system;

14 (B) identify longer range real-time highway and transit monitoring needs
15 and develop plans and strategies for meeting those needs; and

16 (C) provide the capability and means to share that data with state and local
17 governments, and the traveling public.

18 (b) DATA EXCHANGE FORMATS.—Within one year of enactment of this Act, the
19 Secretary shall establish data exchange formats to ensure that the data provided by
20 highway and transit monitoring systems, including statewide incident reporting systems
21 can readily be exchanged across jurisdictional boundaries, facilitating nationwide
22 availability of information.

23 (c) STATEWIDE INCIDENT REPORTING SYTEM.—Within 2 years of enactment
24 of this legislation, each State shall establish a statewide incident reporting system.

25 (d) REGIONAL INTELLIGENT TRANSPORTATION SYSTEM
26 ARCHITECTURE.—

27 (1) As State and local governments develop or update their regional ITS
28 architectures, as specified in section 940.9 of title 23, Code of Federal Regulations
29 (Regional ITS Architecture), they shall explicitly address their real-time highway and
30 transit information needs and the systems needed to meet those needs. This specific

1 incorporation of information needs should address coverage, monitoring systems,
2 data fusion and archiving, and methods of exchanging or sharing this information.

3 (2) States are encouraged to incorporate the data exchange formats developed by
4 the Secretary to ensure that the data provided by highway and transit monitoring
5 systems can readily be exchanged across state and local governments, and with the
6 traveling public.

7 (e) ELIGIBILITY.—

8 (1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—Subject to
9 project approval by the Secretary, a State may obligate funds apportioned to it under
10 section 104(b)(3) of title 23, United States Code, for activities related to the planning and
11 deployment of real-time monitoring elements.

12 (2) USE OF NATIONAL HIGHWAY SYSTEM FUNDS.— Subject to project
13 approval by the Secretary, a State may obligate funds apportioned to it under section
14 104(b)(1) of title 23, United States Code, for activities related to the planning and
15 deployment of real-time monitoring elements.

16 (3) USE OF STATE PLANNING AND RESEARCH FUNDS.— Subject to
17 project approval by the Secretary, a State may obligate funds available under section
18 104(i) of title 23, United States Code, as amended by section 1503 of this Act, for
19 activities related to the planning of real-time monitoring elements.

20 (f) DEFINITION.—In this section, the term “statewide incident reporting system”
21 means a statewide system for facilitating the real-time electronic reporting of incidents to
22 a central location for use in monitoring the event, providing accurate traveler information,
23 and responding to the incident as appropriate.

24 **SEC. 1703. INTELLIGENT TRANSPORTATION SYSTEMS PERFORMANCE**
25 **INCENTIVE PROGRAM.**

26 (a) IN GENERAL.--The Secretary shall establish a comprehensive incentive
27 program to accelerate the integration and interoperability of intelligent transportation
28 systems in order to improve the performance of the surface transportation system in
29 metropolitan and rural areas.

30 (b) DEFINITIONS.--

1 (1) INTELLIGENT TRANSPORTATION SYSTEMS.--The term
2 "intelligent transportation systems" has the meaning given the term under section
3 5507 of this Act.

4 (2) NATIONAL HIGHWAY SYSTEM.--The term "National Highway
5 System" means the Federal-aid highway system described in section 103(b) of
6 title 23, United States Code.

7 (3) REGION – The term “region” means any geographic area that
8 identifies the boundaries of the regional Intelligent Transportation Systems
9 architecture and is defined by the needs of the participating agencies and their
10 stakeholders for the purposes of improving surface transportation operations. A
11 region may include a metropolitan planning area, a corridor, a State, or multiple
12 states.

13 (c) GOAL.--The goal of the intelligent transportation systems performance
14 incentive program is to reduce traffic congestion, improve transportation system
15 reliability, provide better customer service to users of the highway system, and improve
16 safety and security by providing financial incentives to transportation agencies to invest
17 in proactively monitoring and managing the performance of the transportation system.

18 (d) PURPOSE.--The purpose of the intelligent transportation systems
19 performance incentive program is to support the deployment and integration of intelligent
20 transportation systems based on the performance of these systems in improving the
21 management and operation of their surface transportation systems.

22 (e) REGULATIONS.--

23 (1) ISSUANCE.--The Secretary of Transportation shall issue regulations
24 establishing a funding formula for the distribution of funds under this section.

25 (2) BASIS FOR FUNDING FORMULA.--The funding formula shall be
26 based on criteria that reflect each State's--

27 (A) reductions in delay due to incidents;

28 (B) improvements in the operation and safety of signalized
29 intersections;

30 (C) reductions in delay and improvements in safety of work zones
31 on the National Highway System;

1 (D) improvements in the efficiency and reliability of transit
2 services;

3 (E) overall improvement in integrated regional transportation
4 operations;

5 (F) improvements in the quality and availability of traveler
6 information;

7 (G) improved crash notification; and

8 (H) improvements in the safety and productivity of commercial
9 vehicle operations on the National Highway System.

10 (3) EFFECTIVE DATE.--The funding formula shall take effect in the
11 fiscal year established by the Secretary in the regulations.

12 (4) APPORTIONMENT PHASE-IN.--The funding formula shall provide
13 for the apportionment of funds in the following manner:

14 (A) FIRST FISCAL YEAR.--In the first fiscal year that the
15 funding formula is in effect, 50 percent of the sums authorized to be
16 appropriated for expenditure on the intelligent transportation systems
17 performance incentive program for that fiscal year shall be apportioned
18 according to the funding formula developed under this subsection and 50
19 percent of the amount shall be apportioned in accordance with the formula
20 set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States
21 Code.

22 (B) SECOND FISCAL YEAR.--In the second fiscal year the
23 funding formula is in effect, 75 percent of the sums authorized to be
24 appropriated for expenditure on the intelligent transportation systems
25 performance incentive program for that fiscal year shall be apportioned
26 according to the funding formula developed under this subsection and 25
27 percent of the amount shall be apportioned in accordance with the formula
28 set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States
29 Code.

30 (C) THIRD AND SUBSEQUENT FISCAL YEARS.--In the third
31 and subsequent fiscal years, the sums authorized to be appropriated for

1 expenditure on the intelligent transportation systems performance
2 incentive program shall be apportioned according to the funding formula
3 developed under this subsection.

4 (f) FUNDING.--

5 (1) APPLICABILITY OF TITLE 23, UNITED STATES CODE.--Funds
6 authorized to be appropriated under section 1101(a)(13) of this Act shall be
7 available for obligation in the same manner and to the same extent as if such
8 funds were apportioned under chapter 1 of title 23, United States Code, except
9 that such funds shall remain available until expended.

10 (2) FEDERAL SHARE.--The Federal share payable under section 120(b)
11 of title 23, United States Code, shall apply to any project carried out under this
12 section.

13 (g) APPORTIONMENTS.--The Secretary shall apportion the sums authorized to
14 be appropriated for expenditure on the intelligent transportation systems performance
15 incentive program among the States in accordance with the formula set forth in section
16 104(b)(1)(A)(i) through (iv) of title 23, United States Code, until the fiscal year
17 established by the regulation under subsection (e)(3).

18 (h) USE OF FUNDS.--Amounts apportioned under this section shall be used for
19 projects involving planning, deployment, integration, and operation of intelligent
20 transportation systems, or any other project or activity designed to further improve
21 system operations. Funds apportioned to each State under this section should be made
22 available for projects in metropolitan planning areas, corridors, and other regions as
23 appropriate to improve operations.

24 **SEC. 1704. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND**
25 **NETWORKS DEPLOYMENT.**

26 (a) IN GENERAL.--The Secretary shall carry out a Commercial Vehicle Information
27 Systems and Networks program to--

28 (1) improve the safety and productivity of commercial vehicles and
29 drivers; and

30 (2) reduce costs associated with commercial vehicle operations and
31 Federal and State commercial vehicle regulatory requirements.

1 (b) PURPOSE.--The program shall advance the technological capability and
2 promote the deployment of intelligent transportation system applications for commercial
3 vehicle operations, including commercial vehicle, commercial driver, and carrier-specific
4 information systems and networks.

5 (c) CORE DEPLOYMENT GRANTS.--

6 (1) IN GENERAL.--The Secretary shall make grants to eligible States for
7 the core deployment of Commercial Vehicle Information Systems and Networks.

8 (2)ELIGIBILITY.-- To be eligible for a core deployment grant under this
9 section, a State--

10 (A) shall have a Commercial Vehicle Information Systems and
11 Networks program plan and a top level system design approved by the
12 Secretary;

13 (B) shall certify to the Secretary that its Commercial Vehicle
14 Information Systems and Networks deployment activities, including
15 hardware procurement, software and system development, and
16 infrastructure modifications, are consistent with the national intelligent
17 transportation systems and Commercial Vehicle Information Systems and
18 Networks architectures and available standards, and promote
19 interoperability and efficiency to the extent practicable; and

20 (C) shall agree to execute interoperability tests developed by the
21 Federal Motor Carrier Safety Administration to verify that its systems
22 conform with the national intelligent transportation systems architecture,
23 applicable standards, and protocols for Commercial Vehicle Information
24 Systems and Networks.

25 (3) AMOUNT OF GRANTS.--The maximum aggregate amount a State
26 may receive under this section for the core deployment of Commercial Vehicle
27 Information Systems and Networks may not exceed \$2.5 million, including funds
28 received under sections 4001(e) and 5001(a)(5) and (6) of the Transportation
29 Equity Act for the 21st Century for the core deployment of Commercial Vehicle
30 Information Systems and Networks.

1 (4) USE OF FUNDS.--Funds from a grant under this subsection may only
2 be used for the core deployment of Commercial Vehicle Information Systems and
3 Networks. Eligible States that have either completed the core deployment of
4 Commercial Vehicle Information Systems and Networks or complete such
5 deployment before core deployment grant funds are expended, may use the
6 remaining core deployment grant funds for the expanded deployment of
7 Commercial Vehicle Information Systems and Networks in their State.

8 (d) EXPANDED DEPLOYMENT GRANTS.--

9 (1) IN GENERAL.--For each fiscal year, from the funds remaining after
10 the Secretary has made core deployment grants under subsection (c) of this
11 section, the Secretary may make grants to each eligible State, upon request, for
12 the expanded deployment of Commercial Vehicle Information Systems and
13 Networks.

14 (2) ELIGIBILITY.--Each State that has completed the core deployment of
15 Commercial Vehicle Information Systems and Networks is eligible for an
16 expanded deployment grant.

17 (3) AMOUNT OF GRANTS.--Each fiscal year, the Secretary may
18 distribute funds available for expanded deployment grants equally among the
19 eligible States, but not to exceed \$1 million per State.

20 (4) USE OF FUNDS.--A State may use funds from a grant under this
21 subsection only for the expanded deployment of Commercial Vehicle Information
22 Systems and Networks.

23 (e) FEDERAL SHARE.--The Federal share of the cost of a project payable from
24 funds made available to carry out this section shall not exceed 50 percent. The total
25 Federal share of the cost of a project payable from all eligible sources shall not exceed 80
26 percent.

27 (f) APPLICABILITY OF TITLE 23, UNITED STATES CODE.--Funds
28 authorized to be appropriated under section 1101(a)(15) of this Act shall be available for
29 obligation in the same manner and to the same extent as if such funds were apportioned
30 under chapter 1 of title 23, United States Code, except that such funds shall remain
31 available until expended.

1 (g) DEFINITIONS.--In this section, the following definitions apply:

2 (1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND
3 NETWORKS.--The term "Commercial Vehicle Information Systems and
4 Networks" means the information systems and communications networks that
5 provide the capability to--

6 (A) improve the safety of commercial vehicle operations;

7 (B) increase the efficiency of regulatory inspection processes to
8 reduce administrative burdens by advancing technology to facilitate
9 inspections and increase the effectiveness of enforcement efforts;

10 (C) advance electronic processing of registration information,
11 driver licensing information, fuel tax information, inspection and crash
12 data, and other safety information;

13 (D) enhance the safe passage of commercial vehicles across the
14 United States and across international borders; and

15 (E) promote the communication of information among the States
16 and encourage multistate cooperation and corridor development.

17 (2) COMMERCIAL VEHICLE OPERATIONS.--The term "commercial
18 vehicle operations"--

19 (A) means motor carrier operations and motor vehicle regulatory
20 activities associated with the commercial movement of goods, including
21 hazardous materials, and passengers; and

22 (B) with respect to the public sector, includes the issuance of
23 operating credentials, the administration of motor vehicle and fuel taxes,
24 and roadside safety and border crossing inspection and regulatory
25 compliance operations.

26 (3) CORE DEPLOYMENT.--The term "core deployment" means the
27 deployment of systems in a State necessary to provide the State with the
28 following capabilities:

29 (A) Safety information exchange to--

30 (i) electronically collect and transmit commercial vehicle
31 and driver inspection data at a majority of inspection sites;

1 (ii) connect to the Safety and Fitness Electronic Records
2 (SAFER) system for access to interstate carrier and commercial
3 vehicle data, summaries of past safety performance, and
4 commercial vehicle credentials information; and

5 (iii) exchange carrier data and commercial vehicle safety
6 and credentials information within the State and connect to Safety
7 and Fitness Electronic Records (SAFER) for access to interstate
8 carrier and commercial vehicle data.

9 (B) Interstate credentials administration to--

10 (i) perform end-to-end processing, including carrier
11 application, jurisdiction application processing, and credential
12 issuance, of at least the International Registration Plan (IRP) and
13 International Fuel Tax Agreement (IFTA) credentials and extend
14 this processing to other credentials, including intrastate, titling,
15 oversize/overweight, carrier registration, and hazardous materials;

16 (ii) connect to the International Registration Plan (IRP) and
17 International Fuel Tax Agreement (IFTA) clearinghouses; and

18 (iii) have at least 10 percent of the transaction volume
19 handled electronically and have the capability to add more carriers
20 and to extend to branch offices where applicable.

21 (C) Roadside electronic screening to electronically screen
22 transponder-equipped commercial vehicles at a minimum of one fixed or
23 mobile inspection sites and to replicate this screening at other sites.

24 (4) EXPANDED DEPLOYMENT.--The term "expanded deployment"
25 means the deployment of systems in a State that exceed the requirements of an
26 core deployment of Commercial Vehicle Information Systems and Networks,
27 improve safety and the productivity of commercial vehicle operations, and
28 enhance transportation security.
29

1 **Subtitle H. Program Efficiencies and Improvements – Federal-Aid Stewardship**

2
3 **SEC. 1801. SURFACE TRANSPORTATION SYSTEM PERFORMANCE PILOT**
4 **PROGRAM.**

5 (a) ESTABLISHMENT.--

6 (1) IN GENERAL.--The Secretary shall establish and implement a Surface
7 Transportation System Performance Pilot Program. Subject to this section, a
8 State may assume some or all, as the Secretary and State may agree, of the
9 Secretary’s responsibilities under title 23, United States Code, or assume all or
10 some, as they may agree, of the Secretary’s responsibilities under any Federal
11 law, for projects constructed with Federal funds under this pilot program.

12 (2) OBLIGATION OF FUNDS.--States participating in this pilot program
13 may obligate funds under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105,
14 and 144(e) of title 23, United States Code, for any purpose for which Federal
15 funds may be obligated by a State under title 23. However, the State shall reserve
16 10 percent of the funds apportioned under section 104(b)(3) in each fiscal year for
17 transportation enhancement activities as specified in section 133(d)(1), as
18 amended by this Act.

19 (3) PURPOSE.--The purpose of this performance pilot program is to
20 demonstrate the benefits of performance-based management and to determine
21 how such an approach can be best incorporated into an effective Federally-
22 assisted, State administered Federal-aid highway program. The Secretary shall
23 work closely with potential pilot States to determine ways to build into program-
24 level oversight performance measures that reflect both State and national interests
25 and to apply them with specific measurement of program effectiveness.

26 (b) STATE PARTICIPATION.--

27 (1) NUMBER OF PARTICIPATING STATES.--The Secretary may
28 permit up to five States to participate in the performance pilot program
29 established under subsection (a).

1 (2) APPLICATION.--To participate in the performance pilot program, a
2 State shall submit an application to the Secretary that contains, at a minimum, the
3 following:

4 (A) A description of the State's long-term and short-term
5 transportation goals.

6 (B) A description of how the State will address any areas of
7 national strategic importance, as may be determined by the Secretary, in
8 reaching its goals. The areas of national strategic importance must include
9 the following: national security, interstate commerce, mobility, safety, and
10 environmental stewardship.

11 (C) A description of the performance measures under which the
12 State's progress and success toward reaching its goals would be measured.

13 (D) A description of how funding will be distributed equitably
14 across the State, including to urbanized areas with populations in excess of
15 200,000. This would include addressing how local units of government
16 would be consulted in the process of program development and
17 implementation.

18 (E) Evidence of the State's notice and solicitation of public
19 comment and copies of comments received from such solicitation.

20 (F) Such other information as the Secretary may require.

21 (3) PUBLIC NOTICE.--Each State that submits an application under this
22 subsection, shall give public notice of its intent to participate in the pilot program
23 at least 20 days prior to submitting its application to the Secretary. The State shall
24 provide notice and solicit public comment by publishing the entire application in
25 accordance with the State's public notice law.

26 (4) SELECTION CRITERIA.--The Secretary may approve the application
27 of a State under this section only if the application demonstrates how the State
28 plans to address the areas of national strategic importance as identified in
29 subsection (b)(2)(B). The Secretary will prioritize the selection of applications
30 based on the degree to which the applicant's proposed goals address the areas of
31 national strategic importance, the State's ability to manage and monitor its

1 programs on a performance basis, the State's commitment to conduct the required
2 evaluations, and the degree to which the application otherwise proposes to
3 achieve the purposes of this section.

4 (c) PROGRAM ELEMENTS.--

5 (1) STATE AGREEMENT TO ASSUME SECRETARY'S
6 RESPONSIBILITIES.--

7 (A) ASSIGNMENT AND ASSUMPTION OF

8 RESPONSIBILITIES.--The Secretary and a State may agree, as provided
9 in this section, that the Secretary will assign and the State will assume
10 some or all of the responsibilities of the Secretary under any Federal law
11 or requirement, except for the responsibilities relating to Federally
12 recognized tribes, with respect to any project constructed with federal
13 funds under this pilot program. The State shall assume these
14 responsibilities subject to the same procedural and substantive
15 requirements as would be required if such responsibilities were carried out
16 by the Secretary. When a State assumes such responsibilities under a
17 Federal law, the State shall be solely responsible and solely liable for
18 complying with and carrying out that law in lieu of the Secretary and shall
19 submit a certification as provided in subsection (f)(1).

20 (B) FEDERAL ROLE OF STATE.--For purposes of assuming the
21 Secretary's responsibilities under a Surface Transportation System
22 Performance Pilot Program, to the extent the State is carrying out the
23 Secretary's responsibilities under the National Environmental Policy Act,
24 title 23, United States Code, or any other Federal law, the State shall be
25 deemed to be a Federal agency under such laws, and shall agree that its
26 transportation department, or any other State agency carrying out a
27 responsibility of the Secretary under this section, shall be subject to such
28 Federal laws to the same extent that a Federal agency would be subject to
29 such laws.

30 (C) STATE CERTIFICATION OF ASSUMPTION OF

31 RESPONSIBILITIES.--Whenever a State assumes any of the Secretary's

1 responsibilities under a Federal law, the State shall certify that it has laws
2 and regulations that--

3 (i) authorize the State to take the actions necessary to carry
4 out the responsibilities being assumed; and

5 (ii) are comparable to the Federal Freedom of Information
6 Act and that any decision regarding the public availability of a
7 document under those laws is reviewable by a court of competent
8 authority.

9 (2) OTHER FEDERAL AGENCY VIEWS.--If a State assumes a
10 responsibility of the Secretary under paragraph (1) of this subsection that would
11 have required the Secretary to consult with another Federal agency, the Secretary
12 shall solicit the views of such Federal agency prior to entering into or renewing
13 any program agreement.

14 (3) MAINTENANCE OF EFFORT.--The Secretary shall not make any
15 apportionment to a State participating in this performance pilot program in any
16 fiscal year under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and
17 144(e) of title 23, United States Code, unless the State enters into such
18 agreements with the Secretary as the Secretary may require to ensure that the
19 State will maintain its non-Federal transportation capital expenditures in any
20 fiscal year at or above the average level of such expenditures for the preceding
21 three fiscal years.

22 (4) FEDERAL SHARE PAYABLE.--The Federal share payable under this
23 performance pilot program for a project funded with apportionments under
24 sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23,
25 United States Code, may be up to 100 percent; except that, the Federal share
26 payable for transportation enhancements under section 133(d)(1), shall be
27 determined in accordance with title 23, United States Code.

28 (d) PROGRAM AGREEMENT.--

29 (1) IN GENERAL.--Each year prior to making any apportionments to a
30 participating State, the Secretary shall enter into an agreement with the State
31 establishing its performance goals and performance measures.

1 (2) AGREEMENT CONCERNING PARTICIPATING STATE'S
2 RESPONSIBILITIES.--The Secretary shall enter into one or more agreements
3 with a State selected for participation in this pilot program concerning which, if
4 any, Federal laws or requirements the State will carry out under subsection (c).
5 The program agreement between the Secretary and the State shall specify
6 management responsibilities, including the role of the State in relation to other
7 Federal agencies.

8 (3) GOALS.--The Secretary and participating State shall agree, based on
9 the State's priorities and the areas of national strategic importance as determined
10 by the Secretary, on the long-term and short-term goals to be achieved using the
11 State's apportionments under the program.

12 (4) PERFORMANCE MEASURES.--The Secretary and the State shall
13 mutually establish the performance measures that the State must meet relating to
14 the goals identified in paragraph (3) of this subsection. Continued participation in
15 the pilot program is contingent on the State meeting these performance measures.
16 If a State fails to meet the agreed upon performance measures in two consecutive
17 years, the Secretary shall terminate a State's participation in the pilot program.

18 (5) COMPLIANCE.--If a participating State fails to comply with any
19 provision of this section, the Secretary shall take such actions as necessary to
20 ensure compliance. Corrective actions may include termination of the State's
21 participation in the pilot program.

22 (e) LIMITATIONS ON AGREEMENTS.--

23 (1) CIVIL RIGHTS.-- Nothing in this section shall be construed as
24 relieving the Secretary from any of the Secretary's responsibilities under title VI
25 of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.).

26 (2) MAJOR PROJECTS.-- Nothing in this section shall be construed as
27 relieving the Secretary from any of the Secretary's responsibilities with respect to
28 major projects under section 106(h) of title 23, United States Code.

29 (3) STATEWIDE AND METROPOLITAN PLANNING.-- Nothing in
30 this section shall be construed as relieving the Secretary from any of the

1 Secretary's responsibilities under the Statewide and metropolitan planning
2 requirements of sections 134 and 135 of title 23, United States Code.

3 (4) REGULATORY RESPONSIBILITIES.--Nothing in this section shall
4 be construed to allow a State to assume any of the Secretary's rulemaking
5 authority under any Federal law.

6 (f) STATE REPORTING AND ACCOUNTABILITY.--A State participating in
7 this pilot program shall make the following reports to the Secretary. A State may
8 combine reports as appropriate.

9 (1) STATE CERTIFICATION PRIOR TO OBLIGATION OF FUNDS.--
10 As a prerequisite to the Secretary's agreement that a State will fulfill or assume
11 any of the Secretary's responsibilities, and prior to the obligation of any money
12 under this pilot program in any fiscal year, the participating State shall provide,
13 and annually renew, a certification that--

14 (A) is in a form acceptable to the Secretary;

15 (B) is executed by the Governor or the State's top-ranking
16 transportation official charged with the responsibility for highway
17 construction;

18 (C) specifies that the State will fully carry out any of the
19 responsibilities it may assume;

20 (D) specifies that the State consents to assume the status of the
21 Secretary under any responsibility it may assume; and

22 (E) expressly consents on behalf of the State and himself or herself
23 to accept the jurisdiction of the Federal courts for the compliance,
24 discharge, and enforcement of any responsibility of the Secretary it may
25 assume.

26 (2) END OF FISCAL YEAR STATE CERTIFICATION.--At the end of
27 each fiscal year in which a State obligates funds under this pilot program, the
28 State shall certify that it obligated such funds only for projects that would
29 otherwise be eligible for assistance under title 23. Such certification shall also
30 specify that the State reserved for obligation the amounts specified in section
31 133(d)(1) of such title as amended by this Act.

1 (3) FISCAL ACCOUNTABILITY.--Each State shall provide an annual
2 accounting for the obligations in a manner determined by the Secretary in such a
3 way as to provide a basis for evaluating the effect of the pilot program
4 expenditures.

5 (4) ANNUAL STATE ASSESSMENT.--Each State will provide to the
6 Secretary a narrative report at the end of each year describing the benefits of the
7 pilot program to the State and any suggestions for improving the pilot program.

8 (g) TERMINATION.--This pilot program shall terminate six years following
9 enactment of this Act. Funding obligated under the pilot program shall continue to be
10 administered under the terms of the pilot program until those funds have been expended.

11 **SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

12 (a) Section 106 of title 23, United States Code, is amended—

13 (1) by striking subsection (e) and inserting the following:

14 “(e) VALUE ENGINEERING ANALYSIS.—

15 “(1) ANALYSIS.--For all projects on the National Highway System with
16 an estimated total cost of \$25,000,000 or more, and any project the Secretary
17 deems appropriate, the State shall provide a value engineering analysis or other
18 cost reduction analysis. For major projects as identified in subsection (h) of this
19 section, more than one such analysis may be required.

20 “(2) DEFINITION.--In this subsection, the term “value engineering
21 analysis” means a systematic process of review and analysis of a project during its
22 design phase by a multidisciplined team of persons not involved in the project in
23 order to provide suggestions for reducing the total cost of the project and
24 providing a project of equal or better quality. Such suggestions may include
25 combining or eliminating otherwise inefficient use of expensive parts of the
26 original proposal design for the project and total redesign of the proposed project
27 using different technologies, materials, or methods so as to accomplish the
28 original purpose of the project.”; and

29 (2) by striking subsections (g) and (h) and inserting the following:

30 “(g) OVERSIGHT PROGRAM.--

1 “(1) IN GENERAL.--The Secretary shall establish an oversight program
2 to monitor the effective and efficient use of funds authorized by this title. At a
3 minimum, the program shall be responsive to all areas related to financial
4 integrity and project delivery.

5 “(2) FINANCIAL INTEGRITY.--

6 “(A) FINANCIAL MANAGEMENT SYSTEMS.--The Secretary
7 shall perform annual reviews that address elements of the State
8 transportation departments’ financial management systems that affect
9 projects approved under subsection (a). Risk assessment procedures shall
10 be used to identify review areas.

11 “(B) PROJECT COSTS.--The Secretary shall develop minimum
12 standards for estimating project costs, and shall periodically evaluate the
13 States’ practices for estimating project costs, awarding contracts, and
14 reducing project costs.

15 “(C) RESPONSIBILITY OF THE STATES.--The States are
16 responsible for determining that subrecipients of Federal funds have
17 sufficient accounting controls to properly manage Federal funds. The
18 Secretary shall periodically review the States’ monitoring of subrecipients.

19 “(3) PROJECT DELIVERY.--The Secretary shall perform annual reviews
20 that address elements of the States’ project delivery system, which includes one or
21 more activities that are involved in the life cycle of a project from its conception
22 to its completion. Risk assessment procedures will be used to identify review
23 areas.

24 “(4) RESPONSIBILITY OF THE STATES.--The States are responsible
25 for determining that subrecipients of Federal funds have adequate project delivery
26 systems for projects approved under this section. The Secretary shall periodically
27 review the States’ monitoring of subrecipients.

28 “(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.--Nothing in this
29 section shall affect or discharge any oversight responsibility of the Secretary
30 specifically provided for under this title or other Federal law. In addition, the
31 Secretary shall retain full oversight responsibilities for the design and construction

1 of all Appalachian development highways under section 201 of the Appalachian
2 Regional Development Act of 1965 (40 U.S.C. App.).

3 “(h) MAJOR PROJECTS.--

4 “(1) IN GENERAL.--Notwithstanding any other provision in this section,
5 a recipient of Federal financial assistance for a project under this title with an
6 estimated total cost of \$1,000,000,000 or more, or any other project in the
7 discretion of the Secretary, shall submit to the Secretary a project management
8 plan and an annual financial plan.

9 “(2) PROJECT MANAGEMENT PLAN.--The project management plan
10 shall document the procedures and processes in place to provide timely
11 information to the project decision makers to effectively manage the scope, costs,
12 schedules, and quality, and the Federal requirements of the project, and the role of
13 the agency leadership and management team in the delivery of the project.

14 “(3) FINANCIAL PLAN. – The financial plan shall be based on detailed
15 estimates of the cost to complete the project. Annual updates shall be submitted
16 based on reasonable assumptions, as determined by the Secretary, of future
17 increases in the cost to complete the project.

18 “(i) OTHER PROJECTS.--A recipient of Federal financial assistance for a project
19 under this title that receives \$100,000,000 or more in Federal assistance for such project,
20 and that is not covered by subsection (h) of this section, shall prepare an annual financial
21 plan. Annual financial plans prepared under this subsection shall be made available to
22 the Secretary for review upon the Secretary’s request.”.

23 (b) Section 114(a) of such title is amended--

24 (1) in the first sentence by striking "highways or portions of highways
25 located on a Federal-aid system" and inserting "Federal-aid highway or portion
26 thereof"; and

27 (2) by striking the second sentence and inserting “The Secretary shall have
28 the right to inspect and take any corrective action as the Secretary may deem
29 appropriate.”.

1 (c) Section 117 of such title is amended by striking subsection (d) and
2 redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g),
3 respectively.

4 (d) Section 307 of title 49, United States Code, is amended to read as follows:
5 "Sec. 307. Contractor suspension and debarment policy; sharing fraud monetary
6 recoveries

7 "(a) MANDATORY ENFORCEMENT POLICY.--(1) Notwithstanding any other
8 provision of law, the Secretary shall--

9 "(A) debar any contractor or subcontractor convicted of criminal or civil
10 offenses involving fraud related to projects receiving Federal highway or transit
11 funds. The debarment period shall be determined by the Secretary, as appropriate;
12 and

13 "(B) suspend any contractor or subcontractor upon their indictment for
14 criminal or civil offenses involving fraud, subject to the approval of the Attorney
15 General. The Secretary shall have authority to exclude non-affiliated subsidiaries
16 of the debarred business entity, subject to the approval of the Attorney General.

17 "(2) Upon a finding that mandatory debarment or suspension of a contractor or
18 subcontractor under subsection (1), above, would be contrary to the national security
19 interests of the U.S., the Secretary may waive the debarment or suspension.

20 "(b) SHARING OF MONETARY RECOVERIES.--(1) Notwithstanding any
21 other provision of law, monetary judgments accruing to the Federal government from
22 judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in
23 highway and transit programs shall be shared with the State or local transit agency
24 involved. The State or local transit agency shall use these funds for transportation
25 infrastructure and oversight activities related to programs authorized under titles 23 and
26 49.

27 "(2) The amount of recovered funds to be shared with the affected State or local
28 transit agency shall be determined by the Attorney General in consultation with the
29 Secretary. These funds shall be considered Federal funds, to be used in compliance with
30 other relevant Federal transportation laws and regulations.

1 “(3) The requirement for sharing of funds described in subparagraph (1), above,
2 shall not be in effect in circumstances wherein the State or local transit agency is found
3 by the Department of Justice, in consultation with the Secretary, to have been involved or
4 negligent with respect to the fraudulent activities.”.

5 (e) The analysis for chapter 3 of title 49 is amended by revising the entry for item
6 307 to read as follows:

7 “307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.”.

8 **SEC. 1803. EMERGENCY RELIEF.**

9 Section 125(c)(1) of title 23, United States Code, is amended by striking
10 “\$100,000,000” and inserting “\$200,000,000”.

11 **SEC. 1804. FEDERAL LANDS HIGHWAYS PROGRAM.**

12 (a) DEFINITIONS.—Section 101(a) of title 23, United States Code, is
13 amended—

14 (1) in paragraph (7), by striking “ public lands highway” and inserting
15 “recreation roads, public Forest Service roads”;

16 (2) by striking paragraph (8) and inserting the following:

17 “(8) NATIONAL FOREST SYSTEM ROADS AND TRAILS.—The term
18 'National Forest System roads and trails' means forest roads or trails under the
19 jurisdiction of the Forest Service.”;

20 (3) by striking paragraph (10) and inserting the following:

21 “(10) FOREST ROAD OR TRAIL.—The term 'forest road or trail' means
22 a road or trail wholly or partly within, or adjacent to, and serving National Forest
23 System lands that is necessary for the protection, administration, use, and
24 development of its resources. There are four types of forest roads:

25 “(A) CLASSIFIED FOREST ROAD.--The term 'classified forest
26 road' means a forest road that the Forest Service determines to be needed
27 for long-term motor vehicle access, including State roads, county roads,
28 privately owned roads, National Forest System roads, and other roads
29 authorized by the Forest Service.

1 “(B) UNCLASSIFIED FOREST ROAD.--The term 'unclassified
2 forest road' means a forest road not managed by the Forest Service as part
3 of the forest transportation system.

4 “(C) TEMPORARY FOREST ROAD.--The term 'temporary forest
5 road' means a forest road that is authorized by the Forest Service through
6 contract, permit, lease, other written authorization, or emergency operation
7 not intended to be a part of the forest transportation system and not
8 necessary for long-term resource management.

9 “(D) PUBLIC FOREST SERVICE ROAD.--The term 'Public
10 Forest Service Road' means a classified forest road that is open to public
11 travel for which title and maintenance responsibility is vested in the
12 United States government and which has been designated a public road by
13 the Forest Service.”;

14 (4) in paragraph (26), as redesignated by this Act, by striking
15 “unappropriated or unreserved”; and

16 (5) by striking paragraph (27), as redesignated by this Act, by
17 redesignating paragraph (28) as (27), and by inserting the following new
18 paragraph:

19 “(28) RECREATION ROADS.—The term 'recreation roads' means those
20 public roads that provide access to museums, lakes, reservoirs, visitors centers,
21 gateways to major wilderness areas, public uses areas, recreation and historic sites
22 and for which title is vested in the United States Government.”

23 (b) FEDERAL SHARE PAYABLE.—

24 (1) Section 120(k) of such title is amended by striking “Federal-aid
25 highway”.

26 (2) Sections 120(k) and 120(l) of such title are amended by striking
27 “section 104” each time it appears, and inserting in its place “this title and chapter
28 53 of title 49”.

29 (c) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID
30 PROJECTS.—Section 132 of such title is amended by striking the first two sentences and
31 inserting the following:

1 “Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant
2 to an agreement between a State and such Federal agency, the State may (1) direct the
3 Secretary to transfer the funds for the Federal share of the project directly to the Federal
4 agency, or (2) make a deposit with or payment to such Federal agency as may be required
5 in fulfillment of the State's obligation under such agreement for the work undertaken or
6 to be undertaken by such Federal agency; the Secretary, upon execution of a project
7 agreement with such State for the proposed Federal-aid project, may reimburse the State
8 out of the appropriate appropriations for the estimated Federal share, under the provisions
9 of this title, of the State's obligation so deposited or paid by such State.”.

10 (d) ALLOCATIONS.—Section 202 of such title is amended--

11 (1) in subsection (a), by inserting “and grasslands” after “national forests”
12 in the first sentence;

13 (2) by striking subsection (b) and inserting the following:

14 “(b) On October 1 of each fiscal year, the Secretary shall allocate the sums
15 authorized to be appropriated for such fiscal year for forest highways, after making the
16 transfer of funds provided for in subsection 204(g) of this title, for each fiscal year as is
17 provided in section 134 of the Federal-Aid Highway Act of 1987, and with respect to
18 these allocations the Secretary shall give equal consideration to projects that provide
19 access to and within the National Forest System, as identified by the Secretary of
20 Agriculture through renewable resource and land use planning and the impact of such
21 planning on existing transportation facilities.”; and

22 (3) in subsection (d),

23 (A) in paragraph (1), by striking “1999” in the heading and within
24 paragraph (1) and inserting “2005”;

25 (B) in paragraph (2), by striking “2000” in the heading and within
26 paragraphs (2)(A), (2)(B), and (2)(D) and inserting “2005”, and by striking
27 “1999” in paragraph (2)(B) and inserting “2004” at each place it appears;

28 (C) in paragraph (3)(A), by inserting “this chapter and section 125(e) of”
29 after "under", and by adding “and the approved Indian reservation road
30 transportation improvement program” after “Act”; and

1 (D) in paragraph (4)(D), by striking the sentence after “Approval
2 Requirement.” and inserting: “Funds for preliminary engineering for Indian
3 reservation road bridge projects under this subsection may be made available by
4 the Secretary upon request by a tribe or by the Secretary of the Interior. Funds for
5 construction and construction engineering shall be made available only after
6 approval of the plans, specifications, and estimates by the Secretary.”.

7 (e) PLANNING AND AGENCY COORDINATION.—Section 204 of such title
8 is amended—

9 (1) in subsection (a), by inserting “refuge roads,” after “parkways,”;

10 (2) in subsection (b), by striking “appropriate contracts” in the second
11 sentence and inserting “appropriate agreements”;

12 (3) in subsection (k)--

13 (A) by striking “(2), (5),” and inserting “(2), (3), (5),”;

14 (B) by striking “and” after the semicolon at the end of paragraph
15 (1)(B);

16 (C) by striking the period after “improvements” at the end of
17 paragraph (1)(C) and inserting a semicolon;

18 (D) by adding after paragraph (1)(C) the following new
19 subparagraphs:

20 “(D) maintenance of public roads in National Fish hatcheries under
21 Fish and Wildlife Service jurisdiction;

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

25 “(F) maintenance and improvement of recreational trails, but such
26 expenditures on trails are limited to 5 percent of available funding per
27 fiscal year.”.

28 (f) SAFETY.—

29 (1) ALLOCATIONS.—Section 202 of such title is amended by adding at
30 the end the following:

1 “(f) SAFETY.—On October 1 of each fiscal year, the Secretary shall allocate the
2 sums authorized to be appropriated for such fiscal year for safety as follows: 10 percent
3 to the Bureau of Reclamation, 15 percent to the Bureau of Indian Affairs, 15 percent to
4 the Bureau of Land Management, 15 percent to the Forest Service, 5 percent to the Fish
5 and Wildlife Service, 15 percent to Military Traffic Management Command, 15 percent
6 to the National Park Service, and 10 percent to the U.S. Army Corps of Engineers. The
7 Secretary, from time to time, may adjust the percentage of safety funds allocated to the
8 Federal agencies listed above based on the outputs of agency safety management
9 systems, other safety need analyses or/studies, and the use of previously allocated safety
10 funds.”.

11 (2) AVAILABILITY OF FUNDS.—Section 203 of such title is amended
12 in the first sentence by inserting “safety,” after “refuge roads,” at each place it
13 appears.

14 (3) USE OF FUNDING.—Section 204 is amended by adding at the end
15 the following:

16
17 “(1) Safety Activities.—

18 “(1) IN GENERAL.—Notwithstanding any other provision of this title,
19 funds made available for safety shall be used by the Secretary and the Secretary of
20 the appropriate Federal land management agency only to pay the cost of
21 transportation safety improvement projects, elimination of high accident
22 locations, protection or elimination of at-grade railway-highway crossings,
23 collection of safety information, transportation planning, bridge inspections,
24 development and operation of safety management systems, highway safety
25 education programs, and other eligible safety activities authorized in Chapter 4 of
26 this title.

27 “(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the
28 Secretary of the appropriate Federal land management agency, as appropriate,
29 may enter into contracts or agreements with a State, subdivision of a State, or
30 Indian tribe.

1 "(3) EXCEPTION.--Funds allocated to the Bureau of Reclamation for the
2 purposes described in this subsection are exempted from the cost-share
3 requirements of P.L. 89-72, The Federal Water Recreation Act."

4 (g) Recreation Roads.—

5 (1) AUTHORIZATIONS.—Section 201 of such title is amended by
6 striking “public lands highways” and inserting “recreation roads”.

7 (2) ALLOCATIONS.--Section 202 of such title, as amended by this
8 section, is further amended by adding at the end the following:

9 “(g) RECREATION ROADS.—On October 1 of each fiscal year, the Secretary,
10 after making the transfer provided for in subsection 204(i) of this title, shall allocate the
11 sums authorized to be appropriated for such fiscal year for recreation roads as follows: 6
12 percent to the Bureau of Reclamation, 6 percent to the U.S. Army Corps of Engineers, 10
13 percent to the Bureau of Land Management, 10 percent to the Military Traffic
14 Management Command, and 68 percent to the Forest Service. Recreation road funds shall
15 be allocated to projects and activities according to the relative needs of each area served
16 by these roads as indicated in the approved transportation improvement programs for
17 each agency. The Secretary, from time to time, may adjust the percentage of recreation
18 road funds allocated to the Federal agencies listed above based on the outputs of agency
19 management systems, other need analyses/or studies, and the use of previously allocated
20 recreation road funds.”.

21 (3) AVAILABILITY OF FUNDS.—Section 203 of such title is amended
22 by striking “public lands highways” and inserting “recreation roads” at each place
23 it appears.

24 (4) USE OF FUNDING.--Section 204 of such title, as amended by this
25 section, is further amended by adding at the end the following:

26
27 “(m) RECREATION ROADS.—

28 “(1) IN GENERAL.—Notwithstanding any other provision of this title,
29 funds made available for recreation roads shall be used by the Secretary and the
30 Secretary of the appropriate Federal land management agency only to pay the cost
31 of—

1 “(A) maintenance or improvements of existing recreation roads;

2 “(B) maintenance and improvements of eligible projects described
3 in paragraphs (1), (2), (3), (5), and (6) of subsection (h) that are located in
4 or adjacent to Federal land areas under the jurisdiction of the Departments
5 of Agriculture, Defense, or the Interior;

6 “(C) transportation planning and administrative costs associated
7 with such maintenance and improvements; and

8 “(D) the non-Federal share of the cost of any project funded under
9 this title or chapter 53 of title 49 that provides access to or within Federal
10 land areas under the jurisdiction of the Departments of Agriculture,
11 Defense, or the Interior.

12 “(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the
13 Secretary of the appropriate Federal land management agency, as appropriate,
14 may enter into contracts or agreements with a State or civil subdivision of a State
15 or Indian tribe as is determined advisable.

16 “(3) NEW ROADS.—No funds available under this section shall be used
17 to pay the cost of the design or construction of new recreation roads.

18 “(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—
19 Maintenance and improvement projects which are funded under this subsection
20 and are consistent with or have been identified in a land use plan for the Federal
21 area do not require any additional environmental reviews or assessments under
22 the National Environmental Policy Act if the Federal agency that promulgated the
23 land use plan analyzed the specific proposal under the National Environmental
24 Policy Act and there are no significant changes to the proposal bearing on
25 environmental concerns and no significant new information.

26 “(5) EXCEPTION.—Funds allocated to the Bureau of Reclamation for the
27 purposes described in this subsection are exempted from the cost-share
28 requirements of P.L. 89-72, The Federal Water Recreation Act.”.

29 (h) CONFORMING AMENDMENTS.—

1 (1) Sections 120(e) and 125(e) of title 23, United States Code, are
2 amended by inserting “recreation roads,” after “public lands highways,” each
3 place the words appear.

4 (2) Sections 120(e), 125(e), 201, 202(a), 203, section 205 in the heading
5 and in subsections (a) and (d), and the analysis for chapter 2 of such title are
6 amended by striking “forest development roads” and inserting “National Forest
7 System roads” each place the words appear.

8 (3) Section 204(a)(1) is amended by striking "public lands highways" and
9 inserting “recreation roads, forest highways”, section 204(b) is amended by
10 striking "public lands highways" and inserting "recreation roads", and section
11 204(i) is amended by striking "public lands highways" and inserting "recreation
12 roads and forest highways" each place the words appear.

13 (4) Section 217(c) is amended by striking " public lands highways" and
14 inserting "refuge roads".

15 **SEC. 1805. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.**

16 (a) APPORTIONMENT.—The Secretary shall apportion funds made available
17 by section 1101(a)(7) of this Act for fiscal years 2004 through 2009 among the States
18 based on the latest available cost to complete estimate for the Appalachian development
19 highway system under section 201 of the Appalachian Regional Development Act of
20 1965 prepared by the Appalachian Regional Commission. Such funds shall be available
21 to construct highways and access roads under section 201 of the Appalachian Regional
22 Development Act of 1965.

23 (b) APPLICABILITY OF TITLE 23.—Funds authorized by section 1101(a)(7) of
24 this Act for the Appalachian development highway system shall be available for
25 obligation in the same manner as if such funds were apportioned under chapter 1 of title
26 23, United States Code, except that the Federal share of the cost of any project under this
27 section shall be determined in accordance with such section 201 and such funds shall
28 remain available until expended.

29 (c) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code
30 is amended by adding “and the Appalachian development highway system program under

1 section 201 of the Appalachian Regional Development Act of 1965” following “(other
2 than the emergency relief program authorized by section 125”.

3 **SEC. 1806. MULTI-STATE CORRIDOR PLANNING PROGRAM.**

4 (a) ESTABLISHMENT AND PURPOSE.--The Secretary shall establish and
5 implement a program to support and encourage multi-state transportation planning,
6 provide for streamlined transportation project development, and facilitate transportation
7 decision-making.

8 (b) ELIGIBLE RECIPIENTS.--State transportation departments and metropolitan
9 planning organizations are eligible to receive and administer funds provided under this
10 program.

11 (c) ELIGIBLE ACTIVITIES.-- The Secretary shall make allocations under this
12 program for multi-state highway and multi-state multi-modal planning studies.

13 (d) OTHER PROVISIONS REGARDING ELIGIBILITY.--All studies funded
14 under this program shall be consistent with the continuing, cooperative, and
15 comprehensive planning processes required by sections 134 and 135 of title 23, United
16 States Code.

17 (e) SELECTION CRITERIA.--The Secretary shall select projects based on--

- 18 (1) the existence and significance of signed and binding multi-
- 19 jurisdictional agreements;
- 20 (2) endorsement of the study by elected State and local representatives;
- 21 (3) prospects for early completion of the study; and
- 22 (4) whether the projects to be studied are located on corridors identified by
- 23 section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991,
- 24 as amended (Public Law 102-240; 105 Stat. 2032).

25 (f) PROGRAM PRIORITIES.--In administering the program, the Secretary shall--

- 26 (1) encourage and enable States and other jurisdictions to work together to
- 27 develop plans for multi-modal and multi-jurisdictional transportation decision-
- 28 making; and
- 29 (2) give priority to studies that emphasize multi-modal planning, including
- 30 planning for operational improvements that increase mobility, freight

1 productivity, access to marine ports, safety, and security while enhancing the
2 environment.

3 (g) FEDERAL SHARE.--The Federal share payable, using funds from all Federal
4 sources, for any study carried out under this section shall not exceed 80 percent of the
5 total cost of such study, except that the share of funds from the Highway Trust Fund
6 (other than the Mass Transit Account) shall not exceed 50 percent of the total cost of such
7 study.

8 (h) APPLICABILITY OF TITLE 23 U.S.C.-- Funds authorized to be appropriated
9 under section 1101(a)(10) of this Act to carry out this section shall be available for
10 obligation in the same manner as if such funds were apportioned under chapter 1 of title
11 23, United States Code.

12 **SEC. 1807. BORDER PLANNING, OPERATIONS, AND TECHNOLOGY**
13 **PROGRAM.**

14 (a) ESTABLISHMENT AND PURPOSE.--The Secretary shall establish and
15 implement a program to support coordination and improvement in bi-national
16 transportation planning, operations, efficiency, information exchange, safety, and security
17 for the United States borders with Canada and Mexico.

18 (b) ELIGIBLE RECIPIENTS.--State transportation departments and metropolitan
19 planning organizations at or near an international land border in the States of Alaska,
20 Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire,
21 New Mexico, New York, North Dakota, Texas, Vermont and Washington, are eligible to
22 receive and administer funds allocated under this program.

23 (c) ELIGIBLE ACTIVITIES.--

24 (1) IN GENERAL.--The Secretary shall make allocations under the
25 program established in this section for activities at or near international land
26 borders in the States listed in subsection (b).

27 (2) SPECIFIC ACTIVITIES.--The activities eligible for funding under
28 this program are--

29 (A) highway and multi-modal planning or environmental studies;

30 (B) cross-border Port of Entry and safety inspection improvements,
31 including operational enhancements and technology applications;

1 (C) technology and information exchange activities; and

2 (D) right-of-way acquisition, design, and construction, where
3 needed to add the enhancements or applications described in
4 subparagraphs (B) and (C), or to decrease air pollution emissions from
5 vehicles or inspection facilities at border crossings.

6 (d) OTHER PROVISIONS REGARDING ELIGIBILITY.--All studies and
7 projects funded under this program shall be consistent with the continuing, cooperative,
8 and comprehensive planning processes required by sections 134 and 135 of title 23,
9 United States Code. All regionally significant projects that are part of such applications
10 must be on the transportation plans and program required by sections 134 and 135 of title
11 23, United States Code.

12 (e) SELECTION CRITERIA.--The Secretary shall select projects based on--

13 (1) expected benefits, including air quality benefits, of the project in
14 relation to its costs;

15 (2) prospects for early completion of the study or project;

16 (3) endorsement of the project by formally constituted bi-national
17 organizations with both Federal and State or provincial representation;

18 (4) the existence and significance of signed and binding multi-
19 jurisdictional agreements;

20 (5) contributions of other title 23 funds and non-title 23 funds above the
21 minimum required; and

22 (6) the extent to which the project benefits are multi-modal.

23 (f) PROGRAM PRIORITIES.--In administering the program, the Secretary shall
24 emphasize multi-modal planning; infrastructure improvements; and operational
25 improvements that increase safety, security, freight movement, or highway access to rail,
26 marine, and air services while enhancing the environment.

27 (g) FEDERAL SHARE.--The Federal share payable on account of any project
28 carried out under this section shall not exceed 80 percent of the total cost of such project.

29 (h) APPLICABILITY OF TITLE 23 U.S.C.-- Funds authorized to be appropriated
30 under section 1101(1)(11) of this Act to carry out this section shall be available for

1 obligation in the same manner as if such funds were apportioned under chapter 1 of title
2 23, United States Code.

3 (i) ALLOCATION OF FUNDS.--No individual project whose scope of work is
4 limited to information exchange shall receive an allocation greater than \$500,000 in a
5 single year.

6 (j) PROJECTS IN CANADA OR MEXICO.--Projects in Canada or Mexico
7 proposed by one or more border States that directly and predominantly facilitate cross
8 border vehicle and commercial cargo movements at the international gateways or ports of
9 entry into the border region(s) of such State(s), may be constructed using funds allocated
10 under this program provided that, prior to the obligation of such funds, Canada or
11 Mexico, or the political subdivision thereof responsible for the operation of the facility to
12 be constructed, has provided assurances satisfactory to the Secretary that any facility
13 constructed under this subsection will be constructed to standards equivalent to those in
14 the United States and properly maintained and used over the useful life of the facility for
15 the purpose for which the Secretary allocated funds to such project.

16 (k) SET-ASIDE.--The Secretary shall set-aside \$47,000,000 of the funds
17 authorized for fiscal year 2004 under section 1101(a)(11) of this Act for construction of
18 State border safety inspection facilities in the States of Arizona, California, New Mexico,
19 and Texas.

20 (l) TRANSFER OF FUNDS TO THE GENERAL SERVICES
21 ADMINISTRATION.--

22 (1) STATE FUNDS.--At the request of a State, funds allocated under this
23 section may be transferred to the General Services Administration for the purpose
24 of funding a specific project or projects if the Secretary determines, after
25 consultation with the State transportation department as appropriate, that the
26 General Services Administration should carry out the project or projects and the
27 General Services Administration agrees to accept the transfer of funds and to
28 administer those funds. The State shall provide the 20 percent non-Federal share
29 of the project cost, as required under subsection (g) of this section, directly to the
30 General Services Administration. Funds so transferred or provided shall not be
31 deemed to be an augmentation of the General Services Administration's

1 appropriations and shall be administered under that agency's procedures, except
2 the transferred funds shall be available for obligation in the same manner as if
3 such funds were apportioned under chapter 1 of title 23, United States Code.
4 Obligation authority shall be transferred to the General Services Administration in
5 the same manner and amount as the allocated funds transferred for the projects.

6 (2) DIRECT TRANSFER OF AUTHORIZED FUNDS.--In addition to
7 allocations to States and metropolitan planning organizations as provided in
8 subsection (b), the Secretary may transfer funds made available to carry out this
9 section to the General Services Administration for construction of transportation
10 infrastructure projects at or near the border in the States identified in subsection
11 (b), if the Secretary determines that such transfer is necessary to effectively carry
12 out the purposes of this program and the General Services Administration agrees
13 to accept the transfer of funds and to administer those funds. Funds so transferred
14 shall not be deemed to be an augmentation of the General Services
15 Administration's appropriations and shall be administered under that agency's
16 procedures, except the transferred funds shall be available for obligation in the
17 same manner as if such funds were apportioned under chapter 1 of title 23, United
18 States Code. Section 120 of title 23, United States Code, shall not apply to funds
19 so transferred. Obligation authority shall be transferred to the General Services
20 Administration in the same manner and amount as the funds transferred.

21 **SEC. 1808. TERRITORIAL HIGHWAY PROGRAM AMENDMENTS.**

22 (a) DEFINITIONS.---Section 101(a) of title 23, United States Code, as amended
23 by this Act, is further amended--

24 (1) by redesignating paragraphs (36) through (38) as paragraphs (37)
25 through (39) respectively, and

26 (2) by adding the following new paragraph after paragraph (35):

27 “(36) TERRITORIAL HIGHWAY SYSTEM.---The term “territorial
28 highway system” means the system of arterial highways, collector roads, and
29 necessary inter-island connectors in the Virgin Islands, Guam, American Samoa,
30 and the Commonwealth of the Northern Mariana Islands that have been

1 designated by the Governor and approved by the Secretary as provided in section
2 215 of this title.”.

3 (b) FUNDING.---Section 104(b)(1)(A) of title 23, United States Code, is
4 amended by striking “to the Virgin Islands, Guam, American Samoa, and the
5 Commonwealth of Northern Mariana Islands” and inserting “for the territorial highway
6 program authorized under section 215 of this title”.

7 (c) ELIGIBLE PROJECTS.---Section 103(b)(6)(P) of title 23, United States
8 Code, is amended to read as follows:

9 “(P) Projects eligible for assistance under the territorial highway program
10 as provided in section 215 of this title.”.

11 (d) TERRITORIAL HIGHWAY PROGRAM.---Chapter 2 of title 23, United
12 States Code, is amended by striking section 215 and inserting the following:

13 **“§ 215. Territorial highway program**

14 “(a) IN GENERAL.--Recognizing the mutual benefits that will accrue to the
15 Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern
16 Mariana Islands, and to the United States from the improvement of highways in such
17 territories of the United States, the Secretary is authorized to assist each such territorial
18 government in a program for the construction and improvement of a system of arterial
19 and collector highways, and necessary inter-island connectors designated by the
20 Governor of such territory and approved by the Secretary. Federal financial assistance
21 shall be granted under this section in accordance with section 120(h) of this title.

22 “(b) TECHNICAL ASSISTANCE.--In order to continue a long-range highway
23 development program, the Secretary is authorized to provide technical assistance to the
24 territorial governments to enable them to, on a continuing basis, engage in highway
25 planning, conduct environmental evaluations, administer right-of-way acquisition and
26 relocation assistance programs, and design, construct, operate, and maintain a system of
27 arterial and collector highways, including necessary inter-island connectors. The
28 technical assistance to be provided and the terms for sharing information among the
29 territories shall be set forth in the agreement required by subsection (d) of this section.

30 “(c) APPLICABILITY OF CHAPTER 1.--The provisions of chapter 1 of this title
31 (other than provisions related to the apportionment and allocation of funds) shall apply to

1 funds authorized to be appropriated for the territorial highway program, except as
2 determined by the Secretary to be inconsistent with the needs of the territories and the
3 intent of the territorial highway program. The specific sections of chapter 1 that are
4 applicable to each territory and the extent of their applicability shall be identified in the
5 agreement provided for in subsection (d) of this section.

6 “(d) AGREEMENT.--

7 “(1) Except as provided in paragraph (3) of this subsection, no part of the
8 appropriations authorized for the territorial highway program shall be available
9 for obligation or expenditure with respect to any territory until the Governor
10 enters into a new agreement with the Secretary, within 12 months after the
11 effective date of this Act, providing that the government of such territory shall--

12 “(A) implement the territorial highway program in accordance with
13 the appropriate provisions of chapter 1 of this title, as provided for in
14 subsection (c) of this section;

15 “(B) design and construct a system of arterial and collector
16 highways, including necessary interisland connectors, built in accordance
17 with standards appropriate for each territory and approved by the
18 Secretary;

19 “(C) provide for the maintenance of facilities constructed or
20 operated under provisions of this section in a condition to adequately serve
21 the needs of present and future traffic; and

22 “(D) implement standards for traffic operations and uniform traffic
23 control devices that are approved by the Secretary.

24 “(2) The new agreement required by paragraph (1) of this subsection also
25 shall specify the kind of technical assistance to be provided, include appropriate
26 provisions regarding information sharing among the territories, and delineate the
27 oversight role and responsibilities of the territories and the Secretary. The
28 agreement shall be re-evaluated every two years and modified as appropriate.

29 “(3) Agreements in effect on the effective date of this Act shall continue in
30 force until replaced, as required by paragraph (1) of this subsection, and

1 appropriations authorized for the program shall be available for obligation or
2 expenditure while the agreements are in place.

3 “(e) PERMISSIBLE USES OF FUNDS.--

4 “(1) Funds made available for the territorial highway program may be
5 used only for--

6 “(A) eligible surface transportation program projects described in
7 section 133(b) of this title;

8 “(B) cost effective preventive maintenance consistent with the
9 requirements of section 116 of this title;

10 “(C) ferry boats, terminal facilities, and approaches, as provided
11 for in section 129(b) and (c) of this title;

12 “(D) engineering and economic surveys and investigations for the
13 planning of future highway programs and the financing thereof;

14 “(E) studies of the economy, safety, and convenience of highway
15 usage and the desirable regulation and equitable taxation thereof; and

16 “(F) research and development, necessary in connection with the
17 planning, design, and maintenance of the highway system, and the
18 regulation and taxation of their use.

19 “(2) None of the appropriations authorized for the territorial highway
20 program shall be obligated or expended for routine maintenance.

21 “(f) LOCATION OF PROJECTS.--Except as provided in subsection (b)(1) of
22 section 133 of this title, territorial highway projects (other than those described in
23 subsection (b)(3) and (4) of section 133 of this title) may not be undertaken on roads
24 functionally classified as local.”

25 (h) CONFORMING AMENDMENTS.—The analysis of chapter 2 of title 23 is
26 amended by revising the item relating to section 215 to read as follows:

27 “215. Territorial highway program.”

28 **SEC. 1809. FUTURE INTERSTATE SYSTEM ROUTES.**

29 (a) WRITTEN AGREEMENT OF STATES.--Section 103(c)(4)(B)(ii) of title 23,
30 United States Code, is amended by striking “12” and inserting “25”.

1 (b) REMOVAL OF DESIGNATION.--Section 103(c)(4)(B)(iii)(I) of such title is
2 amended--

3 (1) by striking "in the agreement between the Secretary and the State or
4 States"; and

5 (2) by adding at the end the following: "An agreement entered into under
6 clause (ii) prior to the enactment of the Safe, Accountable, Flexible, and Efficient
7 Transportation Equity Act of 2003 shall be deemed to include the 25 year time
8 limitation, notwithstanding an earlier construction completion date in that
9 agreement."

10 **SEC. 1810. DONATIONS AND CREDITS.**

11 Section 323 of title 23, United States Code, is amended by—

12 (1) inserting “or a local government from offering to donate funds,
13 materials or services performed by local government employees,” after “services”
14 in the first sentence of subsection (c); and

15 (2) striking subsection (e).

16 **SEC. 1811. DISADVANTAGED BUSINESS ENTERPRISES.**

17 (a) GENERAL RULE.—Except to the extent that the Secretary determines
18 otherwise, not less than 10 percent of the amounts made available for any program under
19 titles I, III, and V of this Act shall be expended with small business concerns owned and
20 controlled by socially and economically disadvantaged individuals.

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

22 (1) SMALL BUSINESS CONCERN.—The term “small business
23 concern” has the meaning such term has under section 3 of the Small Business
24 Act (15 U.S.C. 632); except that such term shall not include any concern or group
25 of concerns controlled by the same socially and economically disadvantaged
26 individual or individuals which has average annual gross receipts over the
27 preceding 3 fiscal years in excess of \$17,420,000, as adjusted by the Secretary for
28 inflation.

29 (2) SOCIALLY AND ECONOMICALLY DISADVANTAGED
30 INDIVIDUALS.—The term “socially and economically disadvantaged
31 individuals” has the meaning such term has under section 8(d) of the Small

1 Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations
2 promulgated pursuant thereto; except that women shall be presumed to be socially
3 and economically disadvantaged individuals for purposes of this section.

4 (c) ANNUAL LISTING OF DISADVANTAGED BUSINESS

5 ENTERPRISES.—Each State shall annually survey and compile a list of the small
6 business concerns referred to in subsection (a) and the location of such concerns in the
7 State and notify the Secretary, in writing, of the percentage of such concerns which are
8 controlled by women, by socially and economically disadvantaged individuals (other than
9 women), and by individuals who are women and are otherwise socially and economically
10 disadvantaged individuals.

11 (d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum
12 uniform criteria for State governments to use in certifying whether a concern qualifies for
13 purposes of this subsection. Such minimum uniform criteria shall include, but not be
14 limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing
15 of equipment, analysis of bonding capacity, listing of work completed, resume of
16 principal owners, financial capacity, and type of work preferred.

17 (e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits
18 the eligibility of an entity or person to receive funds made available under titles I, III, and
19 V of this Act, if the entity or person is prevented, in whole or in part, from complying
20 with subsection (a) because a Federal court issues a final order in which the court finds
21 that the requirement of subsection (a), or the program established under subsection (a), is
22 unconstitutional.

23 **SEC. 1812. HIGHWAY BRIDGE PROGRAM.**

24 (a) PROGRAM NAME.—Section 144 of title 23, United States Code, is amended
25 in the section heading by striking “replacement and rehabilitation”.

26 (b) IN GENERAL.—Section 144(a) of such title is amended to read as follows:

27 “(a) Congress hereby finds and declares it to be in the vital interest of the Nation
28 that a highway bridge program be established to enable the several States to improve the
29 condition of their bridges through replacement, rehabilitation, and systematic
30 preventative maintenance on highway bridges over waterways, other topographical
31 barriers, other highways, or railroads when the States and the Secretary find that a bridge

1 is unsafe because of structural deficiencies, physical deterioration, or functional
2 obsolescence.”.

3 (c) SCOUR COUNTERMEASURES.—Section 144(d) of such title is amended to
4 read as follows:

5 “(d) Whenever any State or States make application to the Secretary for assistance
6 in replacing or rehabilitating a highway bridge which the priority system established
7 under subsections (b) and (c) of this section shows to be eligible, the Secretary may
8 approve Federal participation in replacing such bridge with a comparable facility or in
9 rehabilitating such bridge. Whenever any State makes application to the Secretary for
10 assistance in painting, seismic retrofit, or preventative maintenance of, or installing scour
11 countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or
12 other environmentally acceptable, minimally corrosive anti-icing and de-icing
13 compositions to, the structure of a highway bridge, the Secretary may approve Federal
14 participation in the painting, seismic retrofit, or preventative maintenance of, or
15 installation of scour countermeasures or application of acetate or sodium acetate/formate
16 or such anti-icing or de-icing composition to, such structure. The Secretary shall
17 determine the eligibility of highway bridges for replacement or rehabilitation for each
18 State based upon the unsafe highway bridges in such State, except that a State may carry
19 out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or
20 installing scour countermeasures to a bridge under this section without regard to whether
21 the bridge is eligible for replacement or rehabilitation under this section.”.

22 (d) APPORTIONMENT FORMULA.—Section 144(e) of such title is amended—

23 (1) in the third sentence by striking “square footage” and inserting “area”;

24 (2) in the fourth sentence by striking “by the total cost of any highway
25 bridges constructed under subsection (m) in such State, relating to replacement of
26 destroyed bridges and ferryboat services, and,” and by striking “1997” and
27 inserting “2003”; and

28 (3) by striking “the Federal-aid primary system” and inserting “Federal-
29 aid highways”.

30 (e) DISCRETIONARY BRIDGE PROGRAM.—Section 144(g) of such title is
31 amended—

1 (1) by striking “SET ASIDES.” in the heading of (g) and all that follows
2 through paragraph (2)(B);

3 (2) by striking “(3)” and redesignating paragraph (3) as subsection (g); and

4 (3) in subsection (g), as redesignated, by--

5 (A) striking “nor more than 35 percent”;

6 (B) striking “1987” and inserting “2004”;

7 (D) striking “2003” and inserting “2009”; and

8 (E) striking “paint” and inserting “perform systematic preventative
9 maintenance”.

10 (f) INVENTORIES AND REPORTS.—Section 144(i) of such title is amended--

11 (1) in paragraph (3), by striking “and”;

12 (2) in paragraph (4), by striking “section.” and inserting “section; and”;

13 and

14 (3) after paragraph (4), by striking “Such reports shall be submitted to
15 such committees biennially at the same time as the report required by section
16 307(f)(1) of this title is submitted to Congress.” and inserting the following:

17 “(5) submit reports required by this subsection to such committees
18 biennially at the same time as the report required by section 502(g) of this title.”.

19 (g) OFF-SYSTEM BRIDGE PROGRAM.—Section 144(n) of such title is
20 amended by inserting “general engineering” between “all” and “standards”.

21 (h) HISTORIC BRIDGE PROGRAM.—Section 144(o) of such title is amended--

22 (1) in paragraph (3), by striking “title (including this section)” and
23 inserting “section” and by inserting “200 percent of” after “shall not exceed” and

24 (2) in paragraph (4), by inserting “200 percent of” after “not to exceed”,
25 and by striking “title” at the end of the paragraph and inserting “section”.

26 (i) WATER RESOURCES PROJECTS.—Section 144 of such title is further
27 amended by adding at the end the following--

28 “(r) Notwithstanding any other provision of law, any bridge funded under this title
29 shall not be considered a “water resources project” as that term is used in the Wild and
30 Scenic Rivers Act (16 U.S.C.1271-1287).”.

1 (j) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23 is
2 amended in the item relating to section 144 by striking “replacement and rehabilitation”.

3 **SEC. 1813. DESIGN-BUILD.**

4 Section 112(b)(3) of title 23, United States Code, is amended by striking
5 subparagraph (C) and inserting the following in its place:

6 “(C) QUALIFIED PROJECTS.--A qualified project is a project under this chapter
7 for which the Secretary has approved the use of design-build contracting under criteria
8 specified in regulations issued by the Secretary.”.

9 **SEC. 1814. INTERNATIONAL FERRIES**

10 Section 129(c)(5) of title 23, United States Code, is amended—

11 (1) by striking "and" the first place it appears in the first sentence, and
12 inserting a comma;

13 (2) by adding “, and the islands that comprise a territory of the United
14 States” after “Puerto Rico” in the first sentence; and

15 (3) by adding “operations between the islands which comprise a territory
16 of the United States,” after “Puerto Rico,” in the second sentence.

17 **SEC. 1815. ASSUMPTION OF RESPONSIBILITY FOR TRANSPORTATION**
18 **ENHANCEMENTS, RECREATIONAL TRAILS, AND TRANSPORTATION AND**
19 **COMMUNITY AND SYSTEM PRESERVATION PROGRAM PROJECTS.**

20 (a) IN GENERAL.—Chapter 1 of title 23, United States Code, as amended by this
21 Act, is further amended by inserting the following new section after section 165:

22 **“§ 166. Assumption of responsibility for transportation enhancements, recreational**
23 **trails, and transportation, community, and system preservation program projects**

24 **“(a) ASSUMPTION OF SECRETARY’S RESPONSIBILITIES UNDER**
25 **APPLICABLE FEDERAL LAWS.--**

26 “(1) IN GENERAL.--Upon mutual agreement the Secretary may assign,
27 and the State may assume, any of the Secretary’s responsibilities (except
28 responsibilities relating to Federally recognized tribes) for environmental reviews,
29 consultation, decision-making or other actions under any Federal law applicable
30 to projects that--

31 “(A) are funded under section 104(h) or section 167 of this title; or

1 “(B) meet the definition of a transportation enhancement activity
2 as set forth in section 101(a)(38) of this title.

3 “(2) LIMITATIONS.--The State shall assume these responsibilities
4 subject to the same procedural and substantive requirements as would be required
5 if such responsibilities were carried out by the Secretary. When a State assumes
6 any responsibility under a Federal law pursuant to this section, it assents to
7 Federal jurisdiction and shall be solely responsible and solely liable for
8 complying with and carrying out that law in lieu of the Secretary.

9 “(b) AGREEMENTS. --The Secretary and the State shall enter into a
10 memorandum of understanding setting forth the responsibilities to be assigned under this
11 section and the terms and conditions under which such assignments are to be made. In the
12 memorandum of understanding the State shall consent to accept the jurisdiction of the
13 Federal courts for the compliance, discharge, and enforcement of any responsibility of the
14 Secretary it may assume. Such memoranda of understanding shall be established for
15 periods of no more than three years. The Secretary shall review and determine
16 compliance with the memorandum of understanding and the laws assigned by it to the
17 State on an annual basis for the first three years of the agreement and, subsequently, on a
18 periodic basis to be determined by mutual agreement but no longer than every three
19 years.

20 “(c) TERMINATION.--The Secretary may terminate any assignment of
21 responsibility under this section upon a determination that a State is not adequately
22 meeting the terms and conditions of the memorandum of understanding.

23 “(d) STATE DEFINED.--For the recreational trails program, “State” means the
24 State agency designated by the Governor of the State in accordance with section
25 206(c)(1) of this title.

26 “(e) PRESERVATION OF PUBLIC INTEREST CONSIDERATION.--Nothing
27 contained in this section shall be construed to limit the requirements under any applicable
28 law providing for the consideration and preservation of the public interest, including
29 public participation and community values in transportation decision-making.

30 “(f) STATE SUBJECT TO FEDERAL LAWS.--For purposes of assuming the

1 Secretary’s responsibilities under this section, the State agency signing the agreement in
2 subsection (c) is deemed to be a Federal agency to the extent the State is carrying out the
3 Secretary’s responsibilities under the National Environmental Policy Act, under this title,
4 and under any other Federal law.”.

5 (b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23,
6 United States Code, as amended by this Act, is further amended by inserting after the
7 item relating to section 165 the following:

8 “166. Assumption of responsibility for transportation enhancements, recreational trails,
9 and transportation and community and system preservation program projects.”.

10 **SEC. 1816. TRANSPORTATION, COMMUNITY, AND SYSTEM**
11 **PRESERVATION PROGRAM.**

12 (a) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION
13 PROGRAM.--Chapter 1 of title 23, United States Code, as amended by this Act, is
14 further amended by inserting the following new section after section 166:

15 **“§ 167. Transportation, community, and system preservation program.**

16 “(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a
17 comprehensive program to investigate and address the relationships between
18 transportation and community and system preservation and identify private sector-based
19 initiatives. Through this program, the Secretary shall facilitate the planning, development,
20 and implementation of strategies by States, metropolitan planning organizations,
21 Federally-recognized tribes, and local governments to integrate transportation,
22 community, and system preservation plans and practices that address one or more of the
23 following:-

- 24 “(1) improve the efficiency of the transportation system;
- 25 “(2) reduce the impacts of transportation on the environment;
- 26 “(3) reduce the need for costly future investments in public infrastructure;
- 27 “(4) provide efficient access to jobs, services, and centers of trade; and
- 28 “(5) examine development patterns and identify strategies to encourage

29 private sector development patterns which achieve the goals identified in
30 paragraphs (1) through (4).

1 “(b) FUNDING.—Funds authorized to be apportioned under section 104(q) of
2 this title shall be available to carry out the provisions of this section.”.

3 (b) Section 104 of such title is amended by adding after subsection (p), as added
4 by this Act, the following:

5 “(q) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION
6 PROGRAM.—

7 “(1) SET-ASIDE.—On October 1 of each fiscal year for fiscal years 2004
8 through 2009, the Secretary, after making the deductions authorized by
9 subsections (a) and (f), shall set aside \$26,000,000 of the remaining funds
10 authorized to be apportioned under subsection (b)(3) for carrying out the
11 Transportation, Community, and System Preservation Program under section 167
12 of this chapter.

13 “(2) APPORTIONMENT.—

14 “(A) From amounts set aside under paragraph (1), the Secretary
15 shall apportion \$500,000 each fiscal year to each State, including the
16 District of Columbia and Puerto Rico, to carryout the provisions of section
17 167.

18 “(B) A State shall also make funds apportioned under this
19 subsection available to metropolitan planning organizations, Federally-
20 recognized tribes, and local governments in a manner and amounts to be
21 determined by the State to carryout the provisions of section 167.”.

22 (c) CONFORMING AMENDMENT.— The analysis for chapter 1 of title 23,
23 United States Code, as amended by this Act, is further amended by inserting after the
24 item relating to section 166 the following:

25 “167. Transportation, community, and system preservation program.”.

26 **SEC. 1817. PROGRAM EFFICIENCIES --FINANCE.**

27 Section 115 of title 23, United States Code, is amended—

28 (1) by striking “(a)” and all that follows through subsection (a)(1)(B);

29 (2) by striking subsection (b);

30 (3) by redesignating subsection (c) as subsection (d);

1 (4) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as
2 subsections (c), (c)(1), and (c)(2) respectively; and

3 (5) by inserting after the section heading the following:

4 “(a) The Secretary may authorize a State to proceed with a project authorized
5 under this title without the aid of Federal funds in accordance with all procedures and all
6 requirements applicable to such a project, except insofar as such procedures and
7 requirements limit the State to implementation of projects with the aid of Federal funds
8 previously apportioned or allocated to it or limit a State to implementation of a project
9 with obligation authority previously allocated to it.

10 “(b) The Secretary, upon the request of the State and execution of a project
11 agreement, may obligate the Federal share, or a portion of the Federal share, of the cost
12 of a project authorized under this section from any category of funds for which the
13 project is eligible.”.

14
15 **Subtitle I. Technical Corrections to Title 23, U.S.C.**

16
17 **SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.**

18 (a) LETTING OF CONTRACTS.--Section 112 of title 23, United States Code, is
19 amended--

20 (1) by striking subsection (f); and

21 (2) by redesignating subsection (g) as subsection (f).

22 (b) FRINGE AND CORRIDOR PARKING FACILITIES.--Section 137(a) of title
23 23, United States Code, is amended in the first sentence by striking "on the Federal-aid
24 urban system" and inserting "on a Federal-aid highway".

25 (c) REPEAL OF OBSOLETE SECTIONS OF TITLE 23.--

26 (1) PRIORITY PRIMARY ROUTES.--Section 147 of title 23, United
27 States Code, is repealed.

28 (2) DEVELOPMENT OF A NATIONAL SCENIC AND
29 RECREATIONAL HIGHWAY.--Section 148 of title 23, United States Code, is
30 repealed.

1 (3) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON
2 CERTAIN LAKES.--Section 155 of title 23, United States Code, is repealed.

3 (4) CONFORMING AMENDMENTS.--The analysis for chapter 1 of title
4 23, United States Code, is amended by striking the items relating to sections 147,
5 148, and 155.

6 **SEC. 1902. CLARIFICATION OF DATE.**

7 Section 109(g) of title 23, United States Code, is amended in the first sentence by
8 striking "the day of enactment of the Federal-Aid Highway Act of 1970" and inserting
9 "December 31, 1970,".

10 **SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING**
11 **FUNDING SOURCES IN TITLE 23.**

12 (a) IN GENERAL.--Section 154 of the Federal-Aid Highway Act of 1987 (23
13 U.S.C. 101 note; 101 Stat. 209) is--

14 (1) transferred to title 23, United States Code;

15 (2) redesignated as section 321;

16 (3) moved to appear after section 320 of that title; and

17 (4) amended by striking the section heading and inserting the following:

18 "Sec. 321. Signs identifying funding sources".

19 (b) CONFORMING AMENDMENT.--The analysis for chapter 3 of title 23,
20 United States Code, is amended by inserting after the item relating to section 320 the
21 following:

22 "321. Signs identifying funding sources.".

23 **SEC. 1904. INCLUSION OF "BUY AMERICA" REQUIREMENTS IN TITLE 23.**

24 (a) IN GENERAL.--Section 165 of the Highway Improvement Act of 1982 (23 U.S.C.
25 101 note; 96 Stat. 2136) is--

26 (1) transferred to title 23, United States Code;

27 (2) redesignated as section 313;

28 (3) moved to appear after section 312 of that title; and

29 (4) amended by striking the section heading and inserting the following:

30 "Sec. 313. Buy America".

1 (b) CONFORMING AMENDMENTS.--(1) The analysis for chapter 3 of title
2 23,United States Code, is amended by inserting after the item relating to section 320 the
3 following:

4 "313. Buy America."

5 (2) Section 313 of title 23, United States Code (as added by subsection (a)), is
6 amended--

7 (A) in subsection (a), by striking "any funds authorized to be appropriated
8 by this Act or by any Act amended by this Act or, after the date of enactment of
9 this Act, any funds authorized to be appropriated to carry out this Act, title 23,
10 United States Code, or the Surface Transportation Assistance Act of 1978" and
11 inserting "any funds authorized to be appropriated to carry out the Surface
12 Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

13 (B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

14 (C) in subsection (d), by striking "this Act, the Surface Transportation
15 Assistance Act of 1978, or title 23, United States Code," and inserting "the
16 Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";

17 (D) by striking subsection (e); and

18 (E) by redesignating subsections (f) and (g) as subsections (e) and (f),
19 respectively.

20 **SEC. 1905. TECHNICAL AMENDMENTS TO 23 USC 140**

21 **(NONDISCRIMINATION).**

22 (a) Section 140(a) of title 23, United States Code, is amended as follows:

23 (1) At the beginning of the second sentence, strike the word "He" and insert in
24 its place the words "The Secretary".

25 (2) In the first sentence, strike "subsection (a) of section 105" and insert in its
26 place "section 135".

27 (3) In the third sentence, strike the phrase "where he considers it necessary"
28 and insert in its place the phrase "where necessary".

29 (4) The last sentence is amended to read as follows:

30 "The Secretary shall periodically obtain from the Secretary of Labor and the respective
31 State transportation departments information which will enable the Secretary to judge

1 compliance with the requirements of this section and the Secretary of Labor shall render
2 to the Secretary such assistance and information as the Secretary shall deem necessary to
3 carry out the equal employment opportunity program required hereunder."

4 (b) Section 140(b) of title 23, United States Code, is amended as follows:

5 (1) In the first sentence, strike the words "highway construction" and insert
6 "surface transportation";

7 (2) In the second sentence, strike the phrase "as he may deem necessary" and
8 insert in its place the phrase "as necessary", and strike the phrase "not to exceed
9 \$2,500,000 for the transition quarter ending September 30, 1976, and".

10 (3) In the fourth sentence, strike the phrase "shall not be not be applicable to
11 contracts" and insert in its place the phrase "shall not be applicable to contracts".

12 (c) The second sentence of section 140(c) of title 23, United States Code, is amended
13 by striking the phrase "the Secretary shall deduct such sums as he may deem necessary,"
14 and inserting in its place the phrase "the Secretary shall deduct such sums as necessary,".

15 (d) Section 140(d) of title 23, United States Code, is amended by striking from its
16 catchline the words "and contracting".

17 **SEC. 1906. FEDERAL SHARE PAYABLE FOR PROJECTS FOR**
18 **ELIMINATION OF HAZARDS OF RAILWAY-HIGHWAY CROSSINGS.**

19 Section 120(c) of title 23, United States Code, is amended by amending the first
20 sentence of subsection (c) to read as follows:

21 "The Federal share payable on account of any project for traffic control signalization;
22 safety rest areas; pavement marking; commuter carpooling and vanpooling; rail-highway
23 crossing closure; projects for elimination of hazards of railway-highway crossings, as
24 identified in section 2604 of Public Law 106-246 (114 Stat. 511, 559); or installation of
25 traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments,
26 breakaway utility poles, or priority control systems for emergency vehicles or transit
27 vehicles at signalized intersections may amount to 100 percent of the cost of construction
28 of such projects; except that not more than 10 percent of all sums apportioned for all the
29 Federal-aid systems for any fiscal year in accordance with section 104 of this title shall
30 be used under this subsection."

31

1 **TITLE II—HIGHWAY SAFETY**

2
3 **SEC. 2001. HIGHWAY SAFETY PROGRAMS.**

4 (a) PERFORMANCE GRANTS. —Section 402 (k) of title 23, United States
5 Code, is amended to read as follows:

6 “(k) PERFORMANCE GRANTS.—In addition to other grants authorized by this
7 section, the Secretary shall make grants in accordance with this subsection. Funds
8 authorized to carry out this subsection in a fiscal year shall be subject to a deduction not
9 to exceed 5 percent for the necessary costs of administering this subsection.

10 “(1) GENERAL PERFORMANCE GRANTS.--On or before December
11 31, 2003, and on or before each December 31 thereafter through December 31,
12 2008, the Secretary shall make grants to States based upon the performance of
13 their highway safety programs in the following categories: (i) motor vehicle crash
14 fatalities; (ii) alcohol-related crash fatalities; and (iii) motorcycle, bicycle, and
15 pedestrian crash fatalities.

16 “(A) DETERMINATIONS BY THE SECRETARY.—The
17 Secretary, through a rulemaking proceeding, shall determine--

18 “(i) measures for calculating and scoring performance in
19 each category under this paragraph, using the data for the most
20 recent calendar year for which the data are available from--

21 “(I) fatality data provided by the National Highway
22 Traffic Safety Administration; and

23 “(II) vehicle miles traveled determined by the
24 Federal Highway Administration.

25 “(ii) goals for achievement and annual progress in each
26 category under this paragraph that reflect the potential of each goal
27 to save lives; and

28 “(iii) a weighting system for all of the goals that reflects the
29 relative potential of each goal to save lives.

30 “(B) AMOUNT OF GRANTS.—The Secretary shall determine the
31 amount of funds available to a State in a fiscal year for grants under this

1 paragraph, based on the State’s achievement or annual progress in each of
2 the categories under this paragraph, using the measures, goals and
3 weighting system established under this paragraph, the amount
4 appropriated to carry out the grants for such fiscal year, and the ratio that
5 the funds apportioned to the State under section 402(c) for such fiscal year
6 bears to the funds apportioned under section 402(c) for such fiscal year to
7 all the States that qualify for a grant for such fiscal year.

8 “(2) SAFETY BELT PERFORMANCE GRANTS.

9 “(A) PRIMARY SAFETY BELT USE LAW.--

10 “(i) For fiscal years 2004 and 2005, the Secretary shall
11 make a grant to each State that enacted, and is enforcing, a primary
12 safety belt use law for all passenger motor vehicles that became
13 effective by December 31, 2002.

14 “(ii) For each of fiscal years 2004 through 2009, the
15 Secretary shall, after making grants under paragraph (2)(A)(i) of
16 this subsection, make a one-time grant to each State that either
17 enacts for the first time after December 31, 2002, and has in effect
18 a primary safety belt use law for all passenger motor vehicles, or,
19 in the case of a State that does not have such a primary safety belt
20 use law, has a State safety belt use rate in the preceding fiscal year
21 of at least 90 percent, as measured under criteria determined by the
22 Secretary.”

23 “(iii) Of the funds authorized for grants under this
24 subsection, \$100,000,000 in each of fiscal years 2004 through
25 2009 shall be available for grants under this paragraph. The
26 amount of a grant available to a State in each of fiscal years 2004
27 and 2005 under paragraph (2)(A)(i) of this subsection shall be
28 equal to one-half of the amount of funds apportioned to the State
29 under subsection (c) of this section for fiscal year 2003. The
30 amount of a grant available to a State in fiscal year 2004 or in a
31 subsequent fiscal year under paragraph (2)(A)(ii) of this subsection

1 shall be equal to five times the amount apportioned to the State for
2 fiscal year 2003 under subsection (c). Notwithstanding subsection
3 (d) of this section, the Federal share payable for grants under this
4 paragraph shall be 100 percent. If the total amount of grants under
5 paragraph (2)(A)(ii) for a fiscal year exceeds the amount of funds
6 available in the fiscal year, grants shall be made to each eligible
7 State, in the order in which its primary safety belt use law became
8 effective or its safety belt use rate reached 90 percent, until the
9 funds for the fiscal year are exhausted. A State that does not
10 receive a grant for which it is eligible in a fiscal year shall receive
11 the grant in the succeeding fiscal year so long as its law remains in
12 effect or its safety belt use rate remains at or above 90 percent. If
13 the total amount of grants under this paragraph for a fiscal year is
14 less than the amount available in the fiscal year, the Secretary shall
15 use any funds that exceed the total amount for grants under
16 paragraph (2)(B) of this subsection.

17 “(B) SAFETY BELT USE RATE.--

18 “(i) On or before December 31, 2003, and on or before each
19 December 31 thereafter through December 31, 2008, the Secretary
20 shall make grants to States based upon their safety belt use rate in
21 the preceding fiscal year.

22 “(ii) The Secretary, through a rulemaking, shall determine
23 measures for calculating and scoring the performance for safety
24 belt use rates, using data for the most recent calendar year for
25 which State safety belt use rate data are available from
26 observational safety belt surveys conducted in accordance with
27 criteria established by the Secretary.

28 “(iii) Of the funds authorized for grants under this
29 subsection, \$25,000,000 for fiscal year 2004, \$27,000,000 for
30 fiscal year 2005, \$29,000,000 for fiscal year 2006, \$31,000,000 for
31 fiscal year 2007, \$34,000,000 for fiscal year 2008, and

1 \$36,000,000 for fiscal year 2009 shall be available for safety belt
2 use rate grants under this paragraph. The Secretary shall determine
3 the amount of funds available to a State in a fiscal year based on
4 the State’s achievement or annual progress in its safety belt use
5 rate, the amount appropriated to carry out the grants for such fiscal
6 year, and the ratio that the funds apportioned to the State under
7 section 402(c) for such fiscal year bears to the funds apportioned
8 under section 402(c) for such fiscal year to all the States that
9 qualify for a grant for such fiscal year. Notwithstanding
10 subsection (d) of this section, the Federal share payable for grants
11 under this paragraph shall be 100 percent.

12 “(C) DEFINITION. —In this paragraph, passenger motor vehicle
13 means a passenger car, pickup truck, van, minivan, or sport utility vehicle,
14 with a gross vehicle weight rating of less than 10,000 pounds.

15 “(3) USE OF GRANTS. —A State allocated an amount for a grant under
16 paragraph (1)(A) of this subsection shall use the amount for activities eligible for
17 assistance under this section, except that it may use up to 50 percent of the
18 amount for activities eligible under section 150 of this title and consistent with the
19 State’s strategic highway safety plan under section 151 of this title that are not
20 otherwise eligible for assistance under this section. A State allocated an amount
21 for a grant under paragraph (2)(A) of this subsection may use the amount for
22 activities eligible for assistance under this section or for activities eligible under
23 section 150 of this title and consistent with the State’s strategic highway safety
24 plan under section 151 of this title that are not otherwise eligible for assistance
25 under this section. A State allocated an amount for a grant under paragraph
26 (2)(B) of this subsection, including any amount transferred under paragraph
27 (2)(A) of this subsection, shall use the amount for safety belt use programs
28 eligible for assistance under this section, except that it may use up to 50 percent of
29 the amount for activities eligible under section 150 of this title and consistent with
30 the State’s strategic highway safety plan under section 151 of this title that are not
31 otherwise eligible for assistance under this section.”.

1 (b) IMPAIRED DRIVING GRANTS.—Section 402 of title 23, United States
2 Code, is amended by adding at the end the following subsection:

3 “(1)(1) IMPAIRED DRIVING GRANTS.— In addition to other grants authorized
4 by this section and subject to the provisions of this subsection, the Secretary shall design
5 and implement a discretionary grant program to develop, demonstrate, and evaluate
6 comprehensive State programs to reduce impaired driving in States with a high number
7 of alcohol-related fatalities and a high rate of alcohol-related fatalities relative to vehicle
8 miles traveled and population.

9 “(2) PROCEDURE.—The Secretary shall establish a procedure for submitting
10 grant applications under this subsection, and shall select from among the applicants the
11 States to participate in the program.

12 “(3) USE OF GRANTS.—A grant to a State under this subsection shall be used
13 only to carry out the State’s program under paragraph (1).

14 “(4) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to
15 carry out this subsection in a fiscal year shall be subject to a deduction not to exceed 10
16 percent for the costs of evaluating the programs and administering the provisions of this
17 subsection.

18 “(5) FEDERAL SHARE.—Notwithstanding subsection (d) of this section, the
19 Federal share payable for a grant under this subsection shall be--

20 “(A) 100 percent in the first and second fiscal years in which the State
21 receives a grant;

22 “(B) 75 percent in the third and fourth fiscal years in which the State
23 receives a grant; and

24 “(C) 50 percent in the fifth and sixth fiscal years in which the State
25 receives a grant.”.

26 **SEC. 2002. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.**

27 Section 403(a) (Authority of the Secretary) of title 23, United States Code, is
28 amended by adding the following paragraphs at the end:

29 “(4) EMERGENCY MEDICAL SERVICES.--In addition to the authority
30 provided under this subsection, the Secretary is authorized to use funds appropriated to
31 carry out this section to enhance coordination among Federal agencies involved with

1 State, local, tribal, and community-based emergency medical services. In exercising this
2 authority, the Secretary may coordinate with State and local governments, the Bureau of
3 Indian Affairs on behalf of Indian tribes, private industry, and other interested parties;
4 collect and exchange emergency medical services data and information; examine
5 emergency medical services needs, best practices, and related technology; and develop
6 emergency medical services standards and guidelines, and plans for the assessment of
7 emergency medical services systems.

8 “(5) INTERNATIONAL COOPERATION.--In addition to the authority provided
9 under this subsection, the Secretary is authorized to use funds appropriated to carry out
10 this section to participate and cooperate in international activities to enhance highway
11 safety by such means as exchanging safety information; conducting safety research; and
12 examining safety needs, best practices, and new technology.

13 “(6) NATIONAL MOTOR VEHICLE CRASH CAUSATION SURVEY.--In
14 addition to the authority provided under this subsection, the Secretary is authorized to use
15 funds appropriated to carry out this section to develop and conduct a nationally
16 representative survey to collect on-scene motor vehicle crash causation data.”.

17 **SEC. 2003. EMERGENCY MEDICAL SERVICES.**

18 (a) FEDERAL COORDINATION AND ENHANCED SUPPORT OF
19 EMERGENCY MEDICAL SERVICES.—Chapter 4 of title 23, United States Code, is
20 amended by revising section 407 to read as follows:

21 **“§ 407. Federal coordination and enhanced support of emergency medical services**

22 “(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL
23 SERVICES.—

24 “(1) IN GENERAL—The Secretary of Transportation and the Secretary of
25 Homeland Security through the Under Secretary for Emergency Preparedness and
26 Response, in consultation with the Secretary of Health and Human Services, shall
27 establish a Federal Interagency Committee on Emergency Medical Services
28 (referred to as the ‘Interagency Committee on EMS’) that shall—

29 “(A) assure coordination among the Federal agencies involved
30 with State, local, tribal or regional emergency medical services and 9-1-1
31 systems;

1 “(B) identify State, local, tribal or regional emergency medical
2 services and 9-1-1 needs:

3 “(C) recommend new or expanded programs, including grant
4 programs, for improving State, local, tribal or regional emergency medical
5 services and implementing improved EMS communications technologies,
6 including wireless E9-1-1;

7 “(D) identify ways to streamline the process through which Federal
8 agencies support State, local, tribal or regional emergency medical
9 services;

10 “(E) assist State, local, tribal or regional emergency medical
11 services in setting priorities based on identified needs; and

12 “(F) advise, consult with and make recommendations on matters
13 relating to the implementation of the coordinated State emergency medical
14 services program established under subsection (b) of this section.

15 “(2) MEMBERSHIP.-- The membership of the Interagency Committee on
16 EMS shall consist of the following officials, or their designees:

17 “(A) Administrator, National Highway Traffic Safety
18 Administration.

19 “(B) Director, Preparedness Division, Emergency Preparedness
20 and Response Directorate, Department of Homeland Security.

21 “(C) Administrator, Health Resources and Services
22 Administration.

23 “(D) Director, Centers for Disease Control and Prevention.

24 “(E) Administrator, United States Fire Administration, Emergency
25 Preparedness and Response Directorate, Department of Homeland
26 Security.

27 “(F) Director, Center for Medicare and Medicaid Services.

28 “(G) Undersecretary of Defense for Personnel and Readiness,
29 Department of Defense.

30 “(H) Assistant Secretary for Public Health Emergency
31 Preparedness, Department of Health and Human Services.

1 “(I) Director, Indian Health Service, Department of Health and
2 Human Services.

3 “(J) Chief, Wireless Telecom Bureau, Federal Communications
4 Commission.

5 “(K) A representative of any other Federal agency identified by the
6 Secretary of Transportation or the Secretary of Homeland Security
7 through the Under Secretary for Emergency Preparedness and Response,
8 in consultation with the Secretary of Health and Human Services, as
9 having a significant role in the purposes of the Interagency Committee on
10 EMS.

11 “(3) ADMINISTRATION.-- The National Highway Traffic Safety
12 Administration, in cooperation with the Director, Preparedness Division,
13 Emergency Preparedness and Response Directorate, Department of Homeland
14 Security, shall provide administrative support to the Interagency Committee on
15 EMS, including scheduling meetings, setting agendas, keeping minutes and
16 records, and producing reports.

17 “(4) LEADERSHIP.--The members of the Interagency Committee on
18 EMS shall select a chairperson of the Committee annually.

19 “(5) MEETINGS.-- The Interagency Committee on EMS shall meet as
20 frequently as determined necessary by the chairperson of the Committee.

21 “(6) ANNUAL REPORTS.--The Interagency Committee on EMS shall
22 prepare an annual report to Congress on the Committee’s activities, actions, and
23 recommendations.

24 “(b) COORDINATED NATIONWIDE EMERGENCY MEDICAL SERVICES
25 PROGRAM.—

26 “(1) GENERAL AUTHORITY.-- The Secretary of Transportation,
27 through the Administrator of the National Highway Traffic Safety Administration,
28 is authorized and directed to cooperate with other Federal departments and
29 agencies, and may assist State and local governments and EMS organizations,
30 both fire-based and otherwise, private industry, and other interested parties, to
31 ensure the development and implementation of a coordinated nationwide

1 emergency medical services program designed to strengthen transportation safety
2 and public health and to implement improved EMS communication systems
3 including 9-1-1. For the purposes of this section, the term ‘State’ means any one
4 of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands,
5 Guam, American Samoa, the Commonwealth of the Northern Mariana Islands,
6 and the Secretary of the Interior on behalf of Indian Tribes.

7 “(2) COORDINATED STATE EMERGENCY MEDICAL SERVICES
8 PROGRAM.--Each State shall establish a program, approved by the Secretary, to
9 coordinate the emergency medical services and resources deployed throughout the
10 State, so as to ensure improved EMS communication systems including 9-1-1,
11 utilization of established best practices in system design and operations,
12 implementation of quality assurance programs, and incorporation of data
13 collection and analysis programs that facilitate system development and data
14 linkages with other systems and programs useful to emergency medical services.

15 “(3) ADMINISTRATION OF STATE PROGRAMS.—The Secretary
16 may not approve a coordinated State emergency medical services program under
17 this subsection unless the program—

18 “(A) provides that the Governor of the State is responsible for its administration
19 through a State office of emergency medical services that has adequate powers and is
20 suitably equipped and organized to carry out such program and coordinates such program
21 with the highway safety office of the State; and

22 “(B) authorizes political subdivisions of the State to participate in and receive
23 funds under such program, consistent with goal of achieving statewide coordination of
24 emergency medical services and 9-1-1 activities.

25 “(4) USE OF FUNDS; ADMINISTRATIVE EXPENSES;
26 APPORTIONMENTS.—Funds authorized to be appropriated to carry out this
27 subsection shall be used to aid the States in conducting coordinated emergency
28 medical services and 9-1-1 programs that are in accordance with the provisions of
29 paragraph (2). Such funds shall be subject to a deduction not to exceed 10 percent
30 for the necessary costs of administering the provisions of this subsection, and the
31 remainder shall be apportioned among the States. Such funds shall be

1 apportioned as follows: 75 percent in the ratio that the population of each State
2 bears to the total population of all the States, as shown by the latest available
3 Federal census, and 25 percent in the ratio that the public road mileage in each
4 State bears to the total public road mileage in all States. For the purpose of this
5 subsection, a ‘public road’ means any road under the jurisdiction of and
6 maintained by a public authority and open to public travel. Public road mileage
7 as used in this subsection shall be determined as of the end of the calendar year
8 prior to the year in which the funds are apportioned and shall be certified to by the
9 Governor of the State and subject to approval by the Secretary. The annual
10 apportionment to each State shall not be less than one-half of 1 percent of the total
11 apportionment, except that the apportionment to the Secretary of the Interior on
12 behalf of Indian tribes shall not be less than three-fourths of 1 percent of the total
13 apportionment, and the apportionments to the Virgin Islands, Guam, American
14 Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less
15 than one-quarter of 1 percent of the total apportionment.

16 “(5) CONTRACT AUTHORITY.—The provisions contained in
17 section 402(d) of this chapter shall apply to this subsection.

18 “(6) FEDERAL SHARE.—The Federal share of the cost of a project or
19 program funded under this subsection shall be 80 percent.

20 “(7) APPLICATION IN INDIAN COUNTRY.—

21 “(A) Use of terms.— For the purpose of application of this
22 subsection in Indian country, the terms ‘State’ and ‘Governor of the State’
23 include the Secretary of the Interior and the term ‘political subdivisions of
24 the State’ includes an Indian tribe.

25 “(B) Indian country defined.— In this subsection, the term ‘Indian
26 country’ means—

27 “(i) all land within the limits of any Indian reservation
28 under the jurisdiction of the United States, notwithstanding the
29 issuance of any patent and including rights-of-way running through
30 the reservation;

1 “(ii) all dependent Indian communities within the borders
2 of the United States, whether within the original or subsequently
3 acquired territory thereof and whether within or without the limits
4 of a State; and

5 “(iii) all Indian allotments, the Indian titles to which have
6 not been extinguished, including rights-of-way running through
7 such allotments.”.

8 (b) The item relating to section 407 in the analysis of chapter 4 of title 23, United
9 States Code, is amended to read as follows:

10 “407. Federal coordination and enhanced support of emergency medical services.”.

11 **SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM**
12 **IMPROVEMENTS**

13 (a) Chapter 4 of title 23, United States Code, is amended by adding the following
14 section:

15 **"§ 412. State traffic safety information system improvements**

16 “(a) GENERAL AUTHORITY.--

17 “(1) AUTHORITY TO MAKE GRANTS.--Subject to the requirements of
18 this section, the Secretary shall make grants to States that adopt and implement
19 effective programs to--

20 “(A) improve the timeliness, accuracy, completeness, uniformity,
21 integration and accessibility of the safety data of the State that is needed to
22 identify priorities for national, State, and local highway and traffic safety
23 programs;

24 “(B) evaluate the effectiveness of efforts to make such
25 improvements;

26 “(C) link these State data systems, including traffic records, with
27 other data systems within the State, such as systems that contain medical,
28 roadway and economic data; and

29 “(D) improve the compatibility and interoperability of the data
30 systems of the State with national data systems and data systems of other
31 States and enhance the ability of the Secretary to observe and analyze

1 national trends in crash occurrences, rates, outcomes, and circumstances.

2 Recipient States may use such grants only to implement such programs.

3 “(2) MODEL DATA ELEMENTS.--The Secretary, in consultation with
4 States and other appropriate parties, shall determine the model data elements
5 necessary to observe and analyze State and national trends in crash occurrences,
6 rates, outcomes, and circumstances. In order to become eligible for a grant under
7 this section, a State shall certify to the Secretary the State’s adoption and use of
8 such model data elements.

9 “(3) MAINTENANCE OF EFFORT.--No grant may be made to a State
10 under this section in any fiscal year unless the State enters into such agreements
11 with the Secretary as the Secretary may require ensuring that the State will
12 maintain its aggregate expenditures from all other sources for highway safety data
13 programs at or above the average level of such expenditures in the 2 fiscal years
14 preceding the date of enactment of this Act.

15 “(4) FEDERAL SHARE.--The Federal share of the cost of adopting and
16 implementing in a fiscal year a program of a State pursuant to paragraph (1) shall
17 not exceed 80 percent.

18 “(b) FIRST-YEAR GRANTS.—

19 “(1) ELIGIBILITY.--To be eligible for a first-year grant under this section
20 in a fiscal year, a State must demonstrate to the satisfaction of the Secretary that
21 the State has—

22 “(A) established a highway safety data and traffic records
23 coordinating committee with a multidisciplinary membership that
24 includes, among others, managers, collectors, and users of traffic records
25 and public health and injury control data systems; and

26 “(B) developed a multiyear highway safety data and traffic records
27 system strategic plan that addresses existing deficiencies in the State’s
28 highway safety data and traffic records system and is approved by the
29 highway safety data and traffic records coordinating committee and—

30 “(i) specifies how existing deficiencies in the State’s
31 highway safety data and traffic records system were identified;

1 “(ii) prioritizes, based on the identified highway safety data
2 and traffic records system deficiencies, the highway safety data
3 and traffic records system needs and goals of the State, including
4 the activities under subsection (a)(1);

5 “(iii) identifies performance-based measures by which
6 progress toward those goals will be determined;

7 “(iv) specifies how the grant funds and any other funds of
8 the State will be used to address needs and goals identified in the
9 multiyear plan; and

10 “(v) includes a current report on the progress in
11 implementing the multiyear plan that documents progress toward
12 the specified goals.

13 “(2) GRANT AMOUNTS.--The amount of a first-year grant to a State for
14 a fiscal year shall equal an amount determined by multiplying--

15 “(A) the amount appropriated to carry out this section for such
16 fiscal year; by--

17 “(B) the ratio that the funds apportioned to the State under section
18 402 of this chapter for fiscal year 2003 bears to the funds apportioned to
19 all States under section 402 for fiscal year 2003;

20 except that no State eligible for a grant under this section shall receive less
21 than \$300,000.

22 “(c) SUCCEEDING-YEAR GRANTS.--

23 “(1) ELIGIBILITY.--A State shall be eligible for a grant under this
24 subsection in a fiscal year succeeding the first fiscal year in which the State
25 receives a grant under subsection (b) if the State, to the satisfaction of the
26 Secretary—

27 “(A) submits an updated multiyear plan that meets the
28 requirements of subsection (b)(1)(B);

29 “(B) certifies that its highway safety data and traffic records
30 coordinating committee continues to operate and supports the multiyear
31 plan;

1 “(C) specifies how the grant funds and any other funds of the State
2 will be used to address needs and goals identified in the multiyear plan;

3 “(D) demonstrates measurable progress toward achieving the goals
4 and objectives identified in the multiyear plan; and

5 “(E) includes a current report on the progress in implementing the
6 multiyear plan.

7 “(2) GRANT AMOUNTS.--The amount of a succeeding year grant made
8 to a State for a fiscal year under this paragraph shall equal an amount determined
9 by multiplying—

10 “(A) the amount appropriated to carry out this section for such
11 fiscal year; by

12 “(B) the ratio that the funds apportioned to the State under section
13 402 for fiscal year 2003 bears to the funds apportioned to all States under
14 section 402 for fiscal year 2003; except that no State eligible for a grant
15 under this paragraph shall receive less than \$500,000.

16 “(d) ADMINISTRATIVE EXPENSES.--Funds authorized to be appropriated to
17 carry out this section in a fiscal year shall be subject to a deduction not to exceed 5
18 percent for the necessary costs of administering the provisions of this section.

19 “(e) APPLICABILITY OF CHAPTER 1.--The provisions contained in section
20 402(d) shall apply to this section.”.

21 (b) The analysis of chapter 4 of title 23, United States Code, is amended by
22 inserting the following at the end:

23 “412. State traffic safety information system improvements.”.

24 **SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.**

25 (a) IN GENERAL.—The following sums are authorized to be appropriated out of
26 the Highway Trust Fund (other than the Mass Transit Account) for the National Highway
27 Traffic Safety Administration:

28 (1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

29 (A) To carry out the State and Community Highway Safety Grant
30 Program under section 402 of title 23, United States Code, except for
31 subsections (k) and (l), \$162,000,000 for fiscal year 2004, \$167,000,000

1 for fiscal year 2005, \$172,000,000 for fiscal year 2006, \$177,000,000 for
2 fiscal year 2007, \$183,000,000 for fiscal year 2008, and \$189,000,000 for
3 fiscal year 2009.

4 (B) To carry out the performance grant programs under subsection
5 (k) of section 402 of title 23, United States Code, \$175,000,000 for fiscal
6 year 2004, \$179,000,000 for fiscal year 2005, \$183,000,000 for fiscal year
7 2006, \$189,000,000 for fiscal year 2007, \$195,000,000 for fiscal year
8 2008, and \$201,000,000 for fiscal year 2009.

9 (C) To carry out the impaired driving grants under subsection (l) of
10 section 402 of title 23, United States Code, \$50,000,000 for each of fiscal
11 years 2004 through 2009.

12 (2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—To
13 carry out the highway safety research and development program under section
14 403 of title 23, United States Code, \$88,452,000 for fiscal year 2004, \$90,000,000
15 for fiscal year 2005, \$92,000,000 for fiscal year 2006, \$94,000,000 for fiscal year
16 2007, \$96,000,000 for fiscal year 2008, and \$99,000,000 for fiscal year 2009.

17 (3) EMERGENCY MEDICAL SERVICES GRANTS.—To carry out
18 section 407 of title 23, United States Code, \$10,000,000 for each of fiscal years
19 2004 through 2009.

20 (4) STATE TRAFFIC SAFETY INFORMATION SYSTEM
21 IMPROVEMENTS GRANTS.—To carry out section 412 of title 23, United
22 States Code, \$50,000,000 for each of fiscal years 2004 through 2009.

23 (5) NATIONAL DRIVER REGISTER.—To carry out chapter 303
24 (National Driver Register) of title 49, United States Code, \$3,600,000 for fiscal
25 year 2004, and \$4,000,000 for each of fiscal years 2005 through 2009.

26 (b) ALLOCATIONS.—

27 (1) EMERGENCY MEDICAL SERVICES ACTIVITIES.—Out of
28 amounts appropriated pursuant to subsection (a)(2), the Secretary may use
29 \$2,226,000 in each fiscal year to carry out paragraph (4) of section 403(a) of title
30 23, United States Code.

1 (2) INTERNATIONAL COOPERATION ACTIVITIES.—Out of
2 amounts appropriated pursuant to subsection (a)(2), the Secretary may use
3 \$200,000 in each fiscal year to carry out paragraph (5) of section 403(a) of title
4 23, United States Code.

5 (3) NATIONAL MOTOR VEHICLE CRASH CAUSATION
6 SURVEY.—Out of the amounts appropriated pursuant to subsection (a)(2), the
7 Secretary may use \$10,000,000 in each fiscal year to carry out paragraph (6) of
8 section 403(a) of title 23, United States Code.

9 (c) APPLICABILITY OF TITLE 23.—(1) Amounts made available under
10 subsection (a)(2) shall be available for obligation in the same manner as if such funds
11 were apportioned under chapter 1 of title 23, United States Code.

12 (2) Notwithstanding section 402(d) of title 23, United States Code, the funds
13 authorized by subsection (a)(1) that are apportioned or allocated in a State shall remain
14 available for obligation in that State for a period of two years after the last day of the
15 fiscal year for which the funds are authorized. Any amounts so apportioned or allocated
16 that remain unobligated at the end of that period shall lapse.

17 **SEC. 2006. REPEAL OF OBSOLETE PROVISIONS OF TITLE 23.**

18 (a) REPEAL OF OBSOLETE PROVISIONS.--Sections 406 and 408 of title 23,
19 United States Code, are repealed.

20 (b) CONFORMING AMENDMENT.--The items relating to sections 406 and 408
21 in the analysis of chapter 4 of title 23, United States Code, are deleted.

22
23 **TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS**

24
25 **SEC. 3001. SHORT TITLE.**

26 This title may be cited as the “Federal Public Transportation Act of 2003.”

27 **SEC. 3002. UPDATED TERMINOLOGY; AMENDMENTS TO TITLE 49,**
28 **UNITED STATES CODE.**

29 (a) UPDATED TERMINOLOGY.--Chapter 53 of title 49, United States Code,
30 including the chapter analysis, is amended by striking "mass" each place it appears before

1 "transportation" and inserting "public", except in sections 5301(f), 5302(a)(7), 5315,
2 5323(a)(1), and 5323(a)(1)(B).

3 (b) AMENDMENTS TO TITLE 49.--Except as otherwise specifically provided,
4 whenever in this title an amendment or repeal is expressed in terms of an amendment to,
5 or repeal of, a section or other provision of law, the reference shall be considered to be
6 made to a section or other provision of title 49, United States Code.

7 **SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.**

8 (a) IN GENERAL.—Section 5301(a) is amended to read as follows:

9 “(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC
10 TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to
11 foster the development and revitalization of public transportation systems that maximize
12 the efficient, secure, and safe mobility of individuals, and minimize environmental
13 impacts and reliance on foreign oil.”.

14 (b) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended by--

15 (1) striking "an urban" and inserting "a"; and

16 (2) striking “under sections 5309 and 5310 of this title”.

17 (c) GENERAL PURPOSES.—Section 5301(f) is amended—

18 (1) in paragraph (1) by—

19 (A) striking “mass” after “improved” and inserting “public”; and

20 (B) striking “public and private mass transportation companies
21 inserting “both public transportation companies and private companies
22 engaged in public transportation”;

23 (2) in paragraphs (2) and (3) by—

24 (A) striking “urban mass” after “areawide” and inserting “public”,
25 and

26 (B) striking “public and private mass transportation companies”
27 and inserting “both public transportation companies and private companies
28 engaged in public transportation”; and

29 (3) in paragraph (5), by striking “urban mass” and inserting “public”.

30 **SEC. 3004. DEFINITIONS.**

31 (a) IN GENERAL.—Section 5302 is amended to read as follows:

1 **"§ 5302. Definitions**

2 "(a) IN GENERAL.--In this chapter, the following definitions apply:

3 "(1) 'access to jobs project' means a project relating to the development
4 and maintenance of transportation services designed to transport welfare
5 recipients and low-income individuals to and from jobs and activities related to
6 their employment, including--

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

9 "(B) promoting public transportation by low-income workers;

10 "(C) promoting the use of transit vouchers for welfare recipients
11 and low-income individuals; and

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

15 "(1a) 'capital project' means a project for--

16 (A) acquiring, constructing, supervising, or inspecting equipment
17 or a facility for use in public transportation, expenses incidental to the
18 acquisition or construction (including designing, engineering, location
19 surveying, mapping, and acquiring rights-of-way), payments for the
20 capital portions of rail trackage rights agreements, transit-related
21 intelligent transportation systems, relocation assistance, acquiring
22 replacement housing sites, and acquiring, constructing, relocating, and
23 rehabilitating replacement housing;

24 "(B) rehabilitating a bus;

25 "(C) remanufacturing a bus;

26 "(D) overhauling rail rolling stock;

27 "(E) preventive maintenance;

28 "(F) leasing equipment or a facility for use in public transportation,
29 subject to regulations that the Secretary prescribes limiting the leasing
30 arrangements to those that are more cost-effective than purchase or
31 construction;

1 "(G) a public transportation improvement that enhances economic
2 development or incorporates private investment, including commercial
3 and residential development, pedestrian and bicycle access to a public
4 transportation facility, and the renovation and improvement of historic
5 transportation facilities, because the improvement enhances the
6 effectiveness of a public transportation project and is related physically or
7 functionally to that public transportation project, or establishes new or
8 enhanced coordination between public transportation and other
9 transportation, and provides a fair share of revenue for public
10 transportation that will be used for public transportation--

11 "(i) including property acquisition, demolition of existing
12 structures, site preparation, utilities, building foundations,
13 walkways, open space, safety and security equipment and facilities
14 (including lighting, surveillance and related intelligent
15 transportation system applications), facilities that incorporate
16 community services such as daycare or health care, and a capital
17 project for, and improving, equipment or a facility for an
18 intermodal transfer facility or transportation mall, except that a
19 person making an agreement to occupy space in a facility under
20 this subparagraph shall pay a reasonable share of the costs of the
21 facility through rental payments and other means; and

22 "(ii) excluding construction of a commercial revenue-
23 producing facility or a part of a public facility not related to public
24 transportation;

25 "(H) the introduction of new technology, through innovative or
26 improved products, into public transportation;

27 "(I) the provision of nonfixed route paratransit transportation
28 services in accordance with section 223 of the Americans with Disabilities
29 Act of 1990, but only for grant recipients that are in compliance with
30 applicable requirements of that Act, including both fixed route and
31 demand responsive service, and only for amounts not to exceed 10 percent

1 of such recipient's annual formula apportionment under sections 5307 and
2 5311;

3 “(J) crime prevention and security—

4 “(i) including—

5 “(I) projects to refine and develop security and
6 emergency response plans;

7 “(II) projects aimed at detecting chemical and
8 biological agents in public transportation;

9 “(III) the conduct of emergency response drills with
10 public transportation agencies and local first response
11 agencies; or

12 “(IV) security training for public transportation
13 employees; but,

14 “(ii) excluding all expenses related to operations, except for
15 such expenses incurred in the provisions of activities under clauses
16 (III) and (IV) of this subparagraph; or

17 “(K) establishment of a debt service reserve made up of deposits
18 with a bondholders' trustee in a non-interest bearing account for the
19 purpose of assuring timely payment of principal and interest on bonds
20 issued by a grant recipient for purposes of financing an eligible project
21 under this Chapter.

22 “(L) remediation associated with construction of a capital project
23 as described this paragraph on a brownfield site as defined in 42 U.S.C.
24 9601.

25 “(2) 'chief executive officer of a State' includes the designee of the chief
26 executive officer.

27 “(3) 'emergency regulation' means a regulation--

28 “(A) that is effective temporarily before the expiration of the
29 otherwise specified periods of time for public notice and comment under
30 section 5334(c); and

1 "(B) prescribed by the Secretary as the result of a finding that a
2 delay in the effective date of the regulation--

3 "(i) would injure seriously an important public interest;

4 "(ii) would frustrate substantially legislative policy and
5 intent; or

6 "(iii) would damage seriously a person or class without
7 serving an important public interest.

8 "(4) 'fixed guideway' means a public transportation facility--

9 "(A) using and occupying a separate right-of-way or rail for the
10 exclusive use of public transportation and other high occupancy vehicles;
11 or

12 "(B) using a fixed catenary system and a right-of-way usable by
13 other forms of transportation.

14 "(5) 'individual with a disability' means an individual who, because of
15 illness, injury, age, congenital malfunction, or other incapacity or temporary or
16 permanent disability (including an individual who is a wheelchair user or has
17 semiambulatory capability), cannot use effectively, without special facilities,
18 planning, or design, public transportation service or a public transportation
19 facility.

20 "(6) 'local governmental authority' includes--

21 "(A) a political subdivision of a State;

22 "(B) an authority of at least 1 State or political subdivision of a
23 State;

24 "(C) an Indian tribe; and

25 "(D) a public corporation, board, or commission established under
26 the laws of a State.

27 "(7) 'mass transportation' means public transportation.

28 "(7a) 'mobility management' means an activity or project that involves
29 one or more of the following goals:

30 "(A) Addressing public transportation customer needs.

1 "(B) Tailoring public transportation services to specific market
2 niches.

3 "(C) Managing public transportation demand.

4 "(D) Land use compatibility with public transportation services.

5 "(E) Improving coordination among public transportation
6 providers and other transportation service providers.

7 "(8) 'net project cost' means the part of a project that reasonably cannot be
8 financed from revenues.

9 "(9) 'new bus model' means a bus model (including a model using
10 alternative fuel)--

11 "(A) that has not been used in public transportation in the United
12 States before the date of production of the model; or

13 "(B) used in public transportation in the United States, but being
14 produced with a major change in configuration or components.

15 "(10) 'public transportation' means transportation by a conveyance that
16 provides regular and continuing general or special transportation to the public, but
17 does not include school bus, charter, or sightseeing transportation.

18 "(10a) 'recipient' means an entity that receives Federal transit program
19 assistance directly from the Federal government.

20 "(11) 'regulation' means any part of a statement of general or particular
21 applicability of the Secretary designed to carry out, interpret, or prescribe law or
22 policy in carrying out this chapter.

23 "(11a) 'reverse commute project' means a public transportation project
24 designed to transport residents of urban areas, urbanized areas, and areas other
25 than urbanized areas to suburban employment opportunities, including any
26 projects to—

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

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

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

6 “(12) 'Secretary' means the Secretary of Transportation.

7 “(13) 'State' means a State of the United States, the District of Columbia,
8 Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the
9 Virgin Islands, except as defined in section 5305 of this title.

10 “(13a) ‘subrecipient’ means an entity that receives Federal transit program
11 assistance indirectly through a recipient, rather than directly from the Federal
12 government.

13 “(14) 'transit' means public transportation.

14 “(15) 'transit enhancement' means, with respect to any project or an area to
15 be served by a project, projects that are designed to enhance public transportation
16 service or use and that are physically or functionally related to transit facilities.
17 Eligible projects are--

18 “(A) historic preservation, rehabilitation, or operation of historic
19 public transportation buildings, structures, or facilities (including historic
20 bus or railroad facilities);

21 “(B) bus shelters;

22 “(C) landscaping and other scenic beautification, including tables,
23 benches, trash receptacles, and street lights;

24 “(D) public art;

25 “(E) pedestrian access or walkways;

26 “(F) bicycle access, including bicycle storage facilities and
27 installing equipment for transporting bicycles on public transportation
28 vehicles;

29 “(G) transit connections to parks within the recipient's transit
30 service area;

31 “(H) signage; and

1 (I) enhanced access for individuals with disabilities to public
2 transportation.

3 "(16) [reserved]

4 "(17) 'urbanized area' means an area encompassing a population of at
5 least 50,000 people that has been defined and designated in the latest decennial
6 census as an "urbanized area" by the Secretary of Commerce.

7 "(18) 'welfare recipient' means an individual who receives or received aid
8 or assistance under a State or tribal program funded under part A of title IV of the
9 Social Security Act (whether in effect before or after the effective date of the
10 amendments made by title I of the Personal Responsibility and Work Opportunity
11 Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2110)) at any time
12 during the 3-year period before the date on which the applicant applies for a grant
13 under this section.

14 "(b) AUTHORITY TO MODIFY 'individual with a disability'.--The Secretary
15 may by regulation modify the definition of the term 'individual with a disability' in
16 subsection (a)(5) as it applies to section 5307(d)(1)(D)."

17 (b) CONFORMING AMENDMENT.—Section 5321 is repealed.

18 **SEC. 3005. METROPOLITAN PLANNING.**

19 The text of section 5303 is amended to read as follows:

20 "Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall
21 be carried out in accordance with the metropolitan planning provisions of chapter 52 of
22 this title."

23 **SEC. 3006. STATEWIDE PLANNING.**

24 (a) SECTION HEADING.—Section 5304 is amended by striking the section
25 heading and inserting the following:

26 **"§ 5304. Statewide planning".**

27 (b) The text of section 5304 is amended to read as follows:

28 "Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall
29 be carried out in accordance with the statewide planning provisions of chapter 52 of this
30 title."

1 (c) CONFORMING AMENDMENT.—The item relating to section 5304 in the
2 table of sections for chapter 53 is amended to read as follows:

3 “5304. Statewide planning.”.

4 **SEC. 3007. PLANNING PROGRAMS.**

5 (a) IN GENERAL.--Section 5305 is amended to read as follows:

6 **“§ 5305. Planning programs**

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

8 “(1) ‘State’ means a State of the United States, the District of Columbia,
9 and Puerto Rico, and

10 “(2) ‘planning emphasis area’ means priority themes identified by the
11 Secretary for consideration in sections 5303 and 5304 of this title.

12 “(b) GENERAL AUTHORITY.—Under criteria the Secretary establishes, the
13 Secretary may make grants to States, authorities of the States, metropolitan planning
14 organizations, and local governmental authorities, or may make agreements with other
15 departments, agencies, and instrumentalities of the Government, or may enter into
16 contracts with private non-profit or for-profit entities for development of, transportation
17 plans and programs and to plan, engineer, design, and evaluate a public transportation
18 project and for other technical studies, including—

19 “(1) studies related to management, planning, operations, capital
20 requirements, and economic feasibility;

21 “(2) evaluating previously financed projects;

22 “(3) peer reviews and exchanges of technical data, information, assistance,
23 and related activities in support of planning and environmental analyses among
24 metropolitan planning organizations and other transportation planners; and,

25 “(4) other similar and related activities preliminary to and in
26 preparation for constructing, acquiring, or improving the operation
27 of facilities and equipment.

28 “(c) PURPOSE.—To the extent practicable, the Secretary shall ensure that
29 amounts appropriated or made available under section 5338 of this title to carry out this
30 section and sections 5303 and 5304 of this title are used to support balanced and
31 comprehensive transportation planning that considers the relationships among land use

1 and all transportation modes, without regard to the programmatic source of the planning
2 amounts.

3 “(d) METROPOLITAN PLANNING PROGRAM— (1) The Secretary shall
4 apportion 80 percent of the amount made available under subsection (h)(2)(A) of this
5 section to States to carry out sections 5303 and 5306 of this title in a ratio equal to the
6 population in urbanized areas in each State divided by the total population in urbanized
7 areas in all States, as shown by the latest available decennial census of population. A
8 State may not receive less than .5 percent of the amount apportioned under this
9 paragraph.

10 “(2) Amounts apportioned to a State under paragraph (1) of this subsection shall
11 be made available promptly after allocation to metropolitan planning organizations in the
12 State designated under this section under a formula--

13 “(A) the State develops in cooperation with the metropolitan planning
14 organizations;

15 “(B) the Secretary of Transportation approves; and

16 “(C) that considers population in urbanized areas and provides an
17 appropriate distribution for urbanized areas to carry out the cooperative processes
18 described in this section.

19 “(3) The Secretary shall apportion 20 percent of the amount made available under
20 subsection (h)(2)(A) of this section to States to supplement allocations made under
21 paragraph (1) of this sub section for metropolitan planning organizations. Amounts under
22 this paragraph shall be allocated under a formula that reflects the additional cost of
23 carrying out planning, programming, and project selection responsibilities under sections
24 5303 and 5306 of this title in complex metropolitan planning areas.

25 “(e) STATE PLANNING AND RESEARCH PROGRAM.--(1) The amounts
26 made available pursuant to subsection (h)(2)(B) of this section shall be apportioned to
27 States for grants and contracts to carry out sections 5303-5306, 5315, and 5322 of this
28 title. The amounts shall be apportioned so that each State receives an amount equal to the
29 population in urbanized areas in the State, divided by the population in urbanized areas in
30 all States, as shown by the latest available decennial census. However, a State must
31 receive at least .5 percent of the amount apportioned under this subsection.

1 “(2) A State, as the State considers appropriate, may authorize part of the amount
2 made available under this subsection to be used to supplement amounts available under
3 subsection (d) of this section.

4 “(f) PLANNING CAPACITY BUILDING PROGRAM—(1) The Secretary shall
5 establish a Planning Capacity Building Program to support and fund innovative practices
6 and enhancements in transportation planning. The purpose of this program shall be to
7 promote activities that support and strengthen the planning processes required under this
8 section and sections 5303 and 5304 of this chapter.

9 “(2) Funding available under subsection (h)(1) of this section to carry out this
10 subsection will support—

11 “(A) incentive grants to state, metropolitan planning organizations, and
12 public transportation operators; and

13 “(B) research, information dissemination, and technical assistance.

14 “(3) The Secretary may use the funds for the purpose described in paragraph
15 (2)(B) independently or make grants to, or enter into contracts, cooperative agreements,
16 and other transactions, with a Federal agency, State agency, local governmental authority,
17 association, nonprofit or for-profit entity, or institution of higher education, to carry out
18 the purposes of this subsection.

19 “(4) The program shall be administered by the Federal Transit Administration in
20 cooperation with the Federal Highway Administration.

21 “(g) GOVERNMENT’S SHARE OF COSTS —(1) Amounts made available to
22 carry out subsections (d), (e) and (f) of this section may not exceed 80 percent of the
23 costs of the activity unless the Secretary of Transportation decides it is in the interests of
24 the Government not to require a State or local match.

25 “(2) When there are planning emphasis areas funded under a grant or contract
26 financed under this section, the Secretary may establish a Government share consistent
27 with the planning emphasis area benefit.

28 “(h) ALLOCATION OF FUNDS.—Of the funds made available by or
29 appropriated to carry out this section under section 5338(a)(2)(A) and (B) and
30 5338(b)(3)(A) and (B) of this title for fiscal years 2004 through 2009,

1 “(1) \$5,000,000 shall be available for the planning capacity building
2 program under subsection (f) of this section; and

3 “(2) of the remaining amount,

4 “(A) 82.72 percent shall be available for metropolitan planning
5 program under subsection (d) of this section; and

6 “(B) 17.28 percent shall be available to carry out subsections (b)
7 and (e) of this section.

8 “(i) AVAILABILITY OF AMOUNTS—An amount apportioned under this section
9 that remains available for 3 years after the fiscal year in which the amount is apportioned
10 shall be reapportioned among the States.”.

11 (b) CONFORMING AMENDMENT.—The item relating to section 5305 in the
12 table of sections for chapter 53 is amended to read as follows:

13 “5305. Planning programs.”.

14 **SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION**

15 (a) SECTION HEADING.—Section 5306 is amended by striking the section
16 heading and inserting the following:

17 **“§ 5306. Private enterprise participation in metropolitan planning and statewide
18 planning”.**

19 (b) CONFORMING AMENDMENT.—The item relating to section 5306 in the
20 table of sections for chapter 53 is amended to read as follows:

21 “5306. Private enterprise participation in metropolitan planning and statewide
22 planning.”.

23 **SEC. 3009. URBANIZED AREA PUBLIC TRANSPORTATION FORMULA
24 GRANTS PROGRAM.**

25 (a) SECTION HEADING.—Section 5307 is amended by striking the section
26 heading and inserting the following:

27 **“§ 5307. Urbanized area public transportation formula grants program”.**

28 (b) TECHNICAL AMENDMENTS—Section 5307 is amended by—

29 (1) striking subsections (h), (j) and (k); and

30 (2) redesignating subsections (i), (l), (m), and (n) as subsections (h), (i),
31 (j), and (k), respectively.

1 (c) DEFINITIONS.—Section 5307(a) is amended to read as follows:

2 "(a) DEFINITIONS.--In this section,:

3 "(1) 'designated recipient' means--

4 "(A) an entity designated, consistent with the planning process
5 under sections 5303-5306 of this title, by the chief executive officer of a
6 State, responsible local officials, and publicly owned operators of public
7 transportation to receive and apportion amounts under sections 5336 and
8 5337 of this title that are attributable to transportation management areas
9 established under section 5303 of this title; or

10 "(B) a State or regional authority if the authority is responsible
11 under the laws of a State for a capital project and for financing and
12 directly providing public transportation.

13 "(2) 'subrecipient' means a State or local governmental authority, a
14 nonprofit organization, or a private operator of public transportation service that
15 may receive a Federal transit program grant indirectly through a recipient, rather
16 than directly from the Federal government.”.

17 (d) GENERAL AUTHORITY—Section 5307(b) is amended—

18 (1) by striking paragraph (1) and inserting a new paragraph (1) as follows:

19 “(1) The Secretary of Transportation may make grants under this section
20 for—

21 “(A) capital projects;

22 “(B) planning and mobility management;

23 “(C) transit enhancements; and

24 “(D) operating costs of equipment and facilities for use in public
25 transportation in an urbanized area with a population of less than
26 200,000.”;

27 (2) by striking paragraphs (2) and (4);

28 (3) by redesignating paragraph (3) as paragraph (2); and

29 (4) in redesignated paragraph (2), by striking “5305(a)” and inserting
30 “5303”.

31 (e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d) is amended—

1 (1) in paragraph (1)(A), by inserting “, including safety and security
2 aspects of the program” after “capacity”;

3 (2) in paragraph (1)(E), by striking everything that appears after “section”
4 and inserting “the recipient will comply with section 5323 and 5325 of this title”;

5 (3) in paragraph (1)(H), by striking “5310(a)-(d)”;

6 (4) by striking paragraph (1)(I);

7 (5) by redesignating paragraph (1)(J) as paragraph (1)(I); and

8 (6) by adding at the end of subsection (f)(1), as redesignated, the
9 following:

10 “(J) with a population of at least 200,000 in its urbanized area will expend
11 one percent of the amount the recipient receives each fiscal year under this section
12 for transit enhancement activities described in section 5302(a)(15) of this title.

13 (f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e), is amended—

14 (1) in the first sentence, by striking “(including associated capital
15 maintenance items)”;

16 (2) in the fourth sentence, by striking “that are more than the amount of
17 those revenues in the fiscal year that ended September 30, 1985” and inserting
18 “and amounts received under a service agreement with a State or local social
19 service agency or a private social service organization”.

20 (g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended
21 by striking paragraph (4).

22 (h) REVIEWS, AUDITS, AND EVALUATIONS.—Section 5307(h), as
23 redesignated, is amended in paragraph (1) (A) by striking “shall” and inserting “may”.

24 (i) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is
25 amended to read as follows:

26 “(k)(1) Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325,
27 5327, 5329, 5330, 5331, 5332, 5333 and 5335” of this title apply to this section and to a
28 grant made under this section. Except as provided in this section, no other provision of
29 this chapter applies to this section or to a grant made under this section.

30 “(2) The provision of assistance under this chapter shall not be construed as
31 bringing within the application of chapter 15, title 5, U.S.C., any nonsupervisory

1 employee of a public transportation system (or any other agency or entity performing
2 related functions) to which such chapter is otherwise inapplicable.”.

3 (j) CONFORMING AMENDMENTS.— (1) The item relating to section 5307 in
4 the table of sections for chapter 53 is amended to read as follows:

5 “5307. Urbanized area public transportation formula grants program.”.

6 (2) Section 3037 of the Transportation Equity Act for the 21st Century, Pub. L.
7 105-178, as amended, is repealed.

8 **SEC. 3010. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.**

9 (a) DEFINITIONS.—Section 5311(a) is amended to read as follows:—

10 “(a) DEFINITIONS.—In this section,

11 “(1) ‘recipient’ means a State that receives a Federal transit program grant
12 directly from the Federal government.

13 “(2) ‘subrecipient’ means a State or local governmental authority, a
14 nonprofit organization, or a private operator of public transportation service that
15 may receive a Federal transit program grant indirectly through a recipient, rather
16 than directly from the Federal government.”

17 (b) GENERAL AUTHORITY.—Section 5311(b) is amended—

18 (1) by revising paragraph (1) to read as follows:

19 “(1) Except as provided in paragraph (2) of this subsection, the Secretary
20 may make grants to areas other than urbanized areas under this section for the
21 following:

22 “(A) public transportation capital projects;

23 “(B) operating costs of equipment and facilities for use in public
24 transportation; and

25 “(C) the acquisition of public transportation services.”;

26 (2) by redesignating paragraph (2) as paragraph (3) and inserting a new
27 paragraph (2), as follows:

28 “(2) A project eligible for a grant under this section shall be included in a
29 State program for public transportation service projects, including agreements
30 with private providers of public transportation service. The program shall be
31 submitted annually to the Secretary. The Secretary may approve the program

1 only if the Secretary finds that the program provides a fair distribution of amounts
2 in the State, including Indian reservations, and the maximum feasible
3 coordination of public transportation service assisted under this section with
4 transportation service assisted by other federal sources.”;

5 (3) In paragraph (3), as redesignated, by inserting “use not more than 2
6 percent of the amount made available to carry out this section to” before “make”;
7 and

8 (4) by adding after paragraph (3) the following:

9 “(4) Of the amount available to carry out paragraph (3), not more than 15
10 percent may be used to carry out projects of a national scope, with the remaining
11 balance provided to the States.”

12 (c) APPORTIONING AMOUNTS.—Subsection (c) is amended to read as follows:

13 “(c) APPORTIONMENTS.—(1) The amounts made available under section
14 5338(a)(2)(K) shall be apportioned as follows:

15 “(A) For each eligible State in accordance with paragraph (2) of this subsection:

16 “(i) \$2,500,000 in fiscal year 2004.

17 “(ii) Three percent in fiscal year 2005.

18 “(iii) Five percent in fiscal year 2006.

19 “(iv) Seven percent in fiscal year 2007.

20 “(v) Nine percent in fiscal year 2008.

21 “(vi) Ten percent in every fiscal year thereafter.

22 “(B) Remaining amounts shall be apportioned to each State in accordance with
23 paragraph (3) of this subsection.

24 “(2)(A) Of the amounts to be apportioned under paragraph (1)(A) of this
25 subsection, the Secretary may use the following amounts to make grants to establish data
26 collection systems capable of collecting the data in subparagraph (C) of this paragraph:

27 “(i) 100 percent in fiscal year 2004.

28 “(ii) \$1,500,000 in fiscal year 2005.

29 “(iii) \$500,000 in fiscal year 2006.

30 “(B) Amounts under subparagraph (A) of this paragraph not obligated
31 within three years following the end of the fiscal year in which those amounts

1 became available shall be available for apportionment under subparagraph (C) of
2 this paragraph.

3 “(C) The remaining amounts to be apportioned under paragraph (1)(A) of
4 this subsection shall be apportioned by a formula determined by the Secretary that
5 distributes funds based on increases in public transportation patronage in other-
6 than-urbanized areas.

7 “(D) In apportioning funds under subparagraph (C) of this paragraph, the
8 Secretary may consider the efficiency of service provision in the non-urbanized
9 areas in the State.

10 “(3) Each State shall receive an amount equal to the remaining amount
11 apportioned multiplied by a ratio equal to the population of areas other than urbanized
12 areas in a State divided by the population of all areas other than urbanized areas in the
13 United States, as shown by the most recent Federal government decennial census of
14 population.”

15 (d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL
16 ASSISTANCE.—Section 5311(e) is amended by striking—

17 (1) " Use for administration and technical assistance. (1)" and inserting "Use for
18 administration, planning, and technical assistance."; and

19 (2) "to a recipient" after "technical assistance"; and

20 (3) paragraph (2).

21 (e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

22 (1) in paragraph (1), by striking “after September 30, 1993,”; and

23 (2) by inserting at the beginning of paragraph (2) “After consultation with
24 affected intercity bus service providers,”.

25 (f) GOVERNMENT’S SHARE OF COSTS.—Section 5311(g) is amended to read
26 as follows:

27 “(g) GOVERNMENT’S SHARE OF COSTS.—(1) A grant for a capital project
28 under this section may not exceed 80 percent of the net capital costs of the project, as
29 determined by the Secretary. A grant made under this section for operating assistance
30 may not exceed 50 percent of the net operating costs of the project, as determined by the
31 Secretary. The remainder—

1 “(A) may be provided from an undistributed cash surplus, a replacement
2 or depreciation cash fund or reserve, a service agreement with a State or local
3 social service agency or a private social service organization, or new capital; and

4 “(B) may be derived from amounts appropriated to or made available to a
5 department or agency of the Federal government (other than the Department of
6 Transportation, except for Federal Land Highway funds) that are eligible to be
7 expended for transportation.

8 “(2) A state carrying out a program of operating assistance under this section may
9 not limit the level or extent of use of the Government grant for the payment of operating
10 expenses.

11 “(3) For purposes of paragraph (2)(B) of this section, the prohibitions on the use
12 of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security
13 Act shall not apply to federal or state funds to be used for transportation purposes.”.

14 (g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.--Section
15 5311(h) is amended to read as follows:

16 “(h) INDIAN RESERVATION RURAL TRANSIT PROGRAM--(1) In this
17 subsection, the term `Indian tribe' has the meaning given the term in section 4 of the
18 Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

19 “(2)(A) The Secretary shall establish and carry out through the States a program
20 to provide grants to Indian tribes to operate, maintain, and establish rural transit programs
21 on reservations or other land under the jurisdiction of the Indian tribes.

22 “(B) The state may waive or reduce the amount of local share required for these
23 grants.

24 “(3) Notwithstanding any other provision of law, for each fiscal year, of the
25 amount made available to carry out this section under section 5338(a)(2)(K) for the fiscal
26 year, the Secretary shall make available \$10,000,000 to carry out this subsection.

27 “(4) Of the funds made available pursuant to paragraph (3) of this subsection,

28 “(A) \$9,500,000 shall be apportioned to the states based on a ratio equal to
29 the tribal population in each state divided by the total tribal population in all
30 states, as shown by the latest decennial census of population for allocation to

1 existing Indian tribal rural transit programs and to plan and establish new Indian
2 tribe rural transit programs;

3 "(B) prior to distribution by states of in-state amounts to Indian tribes,
4 each State may use up to 5 percent for state administration;

5 "(C) amounts apportioned to a state under paragraph (A) of this subsection
6 shall be distributed to Indian tribes in the state based on an allocation plan-

7 "(i) the state develops in cooperation with Indian tribes;

8 "(ii) the Secretary approves; and

9 "(iii) that provides an appropriate distribution for funding the needs
10 of existing and new Indian Reservation Rural Transit Systems; and

11 "(D) \$500,000 shall be available to the Secretary to provide technical
12 assistance, including best practices and outreach, to the states and tribes through
13 grants, contracts, or other arrangements and shall be in addition to and not in lieu
14 of other funds available for these purposes.

15 "(5) An amount apportioned to the states under this subsection-

16 "(A) remains available for 3 years after the fiscal year in which the amount
17 was apportioned; and

18 "(B) shall be reapportioned among the states if unobligated at the end of
19 the 3-year period."

20 (h) RELATIONSHIP TO OTHER LAWS.--Section 5311(j) is amended to read
21 as follows:

22 "(j) RELATIONSHIP TO OTHER LAWS.--(1) Except as provided in
23 subparagraphs (2) and (3) of this subsection, a grant under this section is subject to the
24 requirements of 5307 to the extent the Secretary considers appropriate.

25 "(2) Sections 5323(a)(1)(D) and 5333(b) of this title shall apply, provided
26 that the Secretary of Labor shall utilize a Special Warranty that provides a fair and
27 equitable arrangement to protect the interest of employees.

28 "(3) The Secretary may waive the applicability of the Special Warranty
29 under paragraph (2) for private non-profit subrecipients on a case-by-case basis as
30 the Secretary deems appropriate.

1 "(4) This subsection does not affect or discharge a responsibility of the
2 Secretary under a law of the United States."

3 **SEC. 3011. NEW FREEDOM PROGRAM.**

4 (a) Chapter 53 of title 49, United States Code, is amended by inserting after
5 section 5316 the following:

6 **"§ 5317. New Freedom program**

7 "(a) DEFINITIONS.--In this section,

8 " (1) 'recipient' means a State that receives a grant under this section
9 directly.

10 " (2) 'subrecipient' means a State or local governmental authority, a
11 nonprofit organization, or a private operator of public transportation service that
12 may receive a grant under this section indirectly through a recipient, rather than
13 directly from the Federal government."

14 "(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may
15 provide grants to recipients for new transportation services and transportation alternatives
16 beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101
17 *et seq.*), including motor vehicle programs that assist persons with disabilities with
18 transportation to and from jobs and employment support services.

19 " (2) A recipient may use not more than 15 percent of the amounts apportioned
20 under this section to administer, plan, and provide technical assistance for a project
21 funded under this section.

22 "(c) APPORTIONMENTS.--(1) The Secretary shall apportion amounts made
23 available under section 5338(a)(2)(H) of this title under a formula the Secretary
24 administers.

25 " (2) The recipient may transfer any funds apportioned to it under this subsection
26 to sections 5311(c) or 5336. Any funds transferred pursuant to this subsection shall be
27 made available only for eligible projects selected under this section.

28 "(d) GRANT REQUIREMENTS--(1) Except as provided in paragraphs (2) and
29 (3) of this subsection, a grant under this section is subject to the requirements of 5307 to
30 the extent the Secretary considers appropriate.

1 "(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor
2 shall utilize a Special Warranty that provides a fair and equitable arrangement to protect
3 the interest of employees.

4 "(3) The Secretary may waive the applicability of the Special Warranty under
5 paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary
6 deems appropriate.

7 "(4) A recipient of a grant under this section shall certify that allocations of the
8 grant to subrecipients are distributed on a fair and equitable basis.

9 "(e) COMPETITIVE PROCESS--(1) The recipient shall conduct a statewide
10 solicitation for applications for grants under this section.

11 "(2) Subrecipients seeking to receive a grant under this section shall submit to the
12 recipient an application in the form and in accordance with such requirements as the
13 recipient shall establish.

14 "(3) Subrecipients submitting applications pursuant to paragraph (2) shall be
15 selected on a competitive basis.

16 "(f) COORDINATION--(1) The Secretary shall coordinate activities under this
17 section with related activities under programs of other Federal departments and agencies.

18 "(2) A recipient that transfers funds to section 5336 pursuant to subsection (c)(2)
19 shall certify that the project for which the funds are requested has been coordinated with
20 private non-profit providers of services under this section.

21 "(3) A recipient of funds under this section shall certify that--

22 "(A) the projects selected were derived from a locally developed,
23 coordinated public transit-human services transportation plan; and

24 "(B) the plan was developed through a process that included
25 representatives of public, private, and nonprofit transportation and human services
26 providers and participation by the public;

27 "(g) GOVERNMENT'S SHARE OF COSTS.—(1) A grant for a capital project
28 under this section may not exceed 80 percent of the net capital costs of the project, as
29 determined by the Secretary. A grant made under this section for operating assistance
30 may not exceed 50 percent of the net operating costs of the project, as determined by the
31 Secretary. The remainder may be—

1 “(A) provided from an undistributed cash surplus, a replacement or
2 depreciation cash fund or reserve, a service agreement with a State or local social
3 service agency or a private social service organization, or new capital; and

4 “(B) derived from amounts appropriated to or made available to a
5 department or agency of the Federal government (other than the Department of
6 Transportation, except for Federal Land Highway funds) that are eligible to be
7 expended for transportation.

8 “(2) A recipient carrying out a program of operating assistance under this section
9 may not limit the level or extent of use of the Government grant for the payment of
10 operating expenses.

11 “(3) For purposes of paragraph (1)(B) of this section, the prohibitions on the use
12 of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security
13 Act shall not apply to federal or state funds to be used for transportation purposes.

14 (b) CONFORMING AMENDMENT.—The table of sections for Chapter 53 is
15 amended after the item relating to section 5316 by adding the following:

16 “5317. New Freedom program.”.

17 **SEC. 3012. MAJOR CAPITAL INVESTMENT PROGRAM.**

18 (a) MAJOR CAPITAL INVESTMENT PROGRAM.—Section 5309 is amended
19 to read as follows:

20 **“§ 5309. Major capital investment grants**

21 “(a) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make
22 grants under this section to State and local governmental authorities to assist them and
23 their subrecipients in financing capital projects for—

24 “(A) new fixed guideway systems, extensions to existing fixed guideway
25 systems, and related project activities;

26 “(B) the capital costs of coordinating public transportation with other
27 transportation;

28 “(C) the introduction of new technology, through innovative or improved
29 products, into public transportation; or

30 “(D) the development of corridors to support public transportation, including
31 protecting rights of way through acquisition, construction of dedicated bus and high

1 occupancy vehicle lanes or park and ride lots, or other capital improvements that
2 the Secretary may decide would result in increased public transportation usage in
3 the corridor.

4 “(2) The Secretary shall require that a grant under this subsection be subject to the
5 terms, conditions, requirements, and provisions the Secretary decides are necessary or
6 appropriate for the purposes of this section, including requirements for the disposition of
7 net increases in value of real property resulting from the project assisted under this
8 section.

9 “(b) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—(1)
10 The Secretary may not approve a grant for a project under this section unless the
11 Secretary finds that the project is part of an approved transportation plan and program of
12 projects required under sections 5303-5306 of this title, and that the applicant has or will
13 have the legal, financial, and technical capacity to carry out the project (including safety
14 and security aspects of the project), satisfactory continuing control over the use of the
15 equipment or facilities, and the capability and willingness to maintain the equipment or
16 facilities.

17 “(2) An applicant that has submitted a certification required by section
18 5307(d)(1)(A)-(C) and (H) of this title shall provide sufficient information upon which
19 the Secretary can make the findings required by this subsection.

20 “(c) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS OF \$75
21 MILLION OR MORE.—(1) A project financed under this subsection shall be carried out
22 through a full funding grant agreement. The Secretary shall enter into a full funding grant
23 agreement based on the evaluations and ratings required under this subsection. The
24 Secretary shall not enter into a full funding grant agreement for a project unless that
25 project is authorized for final design and construction and has been rated as 'medium,'
26 'medium-high,' or 'high,' as defined in this subsection.

27 “(2) The Secretary may approve a grant under this section for a major capital
28 project only if the Secretary makes the following determinations, based upon evaluations
29 and considerations as set forth below:

30 “(A) The Secretary may approve a grant under this section for a major
31 capital project only if the Secretary determines that the proposed project is--

1 “(i) based on the results of an alternatives analysis and preliminary
2 engineering;

3 “(ii) justified based on a comprehensive review of its mobility
4 improvements, environmental benefits, cost effectiveness, operating
5 efficiencies, transit supportive policies and existing land use; and

6 “(iii) supported by an acceptable degree of local financial
7 commitment, including evidence of stable and dependable financing
8 sources to construct the project, and maintain, and operate the entire
9 public transportation system.

10 “(B) Before making the determinations required by paragraph (2)(A),
11 the Secretary shall first analyze, evaluate, and consider the following factors:

12 “(i) In evaluating a project for purposes of making the finding
13 required by paragraph (2)(A)(i), the Secretary shall analyze and consider the
14 results of the alternatives analysis and preliminary engineering for the
15 project.

16 “(ii) In evaluating a project for purposes of making the finding
17 required by paragraph (2)(A)(ii), the Secretary shall—

18 “(I) consider the direct and indirect costs of relevant
19 alternatives;

20 “(II) consider factors such as congestion relief, improved
21 mobility, air pollution, noise pollution, energy consumption, and all
22 associated ancillary and mitigation costs necessary to carry out each
23 alternative analyzed, and recognize reductions in local infrastructure
24 costs achieved through compact land use development;

25 “(III) identify and consider public transportation supportive
26 existing land use policies and future patterns, and the cost of suburban
27 sprawl;

28 “(IV) consider the degree to which the project increases the
29 mobility of the public transportation dependent population or promotes
30 economic development;

1 “(V) consider population density and current transit ridership in
2 the corridor;

3 “(VI) consider the technical capability of the grant recipient to
4 construct the project;

5 “(VII) adjust the project justification to reflect differences in
6 local land, construction, and operating costs; and

7 “(VIII) consider other factors that the Secretary determines
8 appropriate to carry out this chapter.

9 “(iii) In evaluating a project under paragraph (2)(A)(iii), the
10 Secretary shall require that—

11 “(I) the proposed project plan provides for the availability
12 of contingency amounts that the Secretary determines to be
13 reasonable to cover unanticipated cost increases;

14 “(II) each proposed local source of capital and operating
15 financing is stable, reliable, and available within the proposed
16 project timetable; and

17 “(III) local resources are available to operate the overall
18 proposed public transportation system (including essential feeder
19 bus and other services necessary to achieve the projected ridership
20 levels) without requiring a reduction in existing public
21 transportation services to operate the proposed project.

22 “(iv) In assessing the stability, reliability, and availability of
23 proposed sources of local financing under paragraph (2)(A)(iii), the
24 Secretary shall consider—

25 “(I) existing grant commitments;

26 “(II) the degree to which financing sources are dedicated to
27 the purposes propose;

28 “(III) any debt obligation that exists or is proposed by the
29 recipient for the proposed project or other public transportation
30 purpose; and

1 “(IV) the extent to which the project has a local financial
2 commitment that exceeds the required non-Federal share of the
3 cost of the project.

4 “(3) A proposed project may advance from alternatives analysis to preliminary
5 engineering, and may advance from preliminary engineering to final design and
6 construction, only if the Secretary finds that the project meets the requirements of this
7 section and there is a reasonable likelihood that the project will continue to meet such
8 requirements. In making the findings, the Secretary shall evaluate and rate the project as
9 'high,' 'medium-high,' 'medium,' 'low-medium,' or 'low,' based on the results of
10 alternatives analysis, the project justification criteria, and the degree of local financial
11 commitment, as required under this subsection. In rating the projects, the Secretary shall
12 provide, in addition to the overall project rating, individual ratings for each of the criteria
13 established by regulation.

14 “(d) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS LESS
15 THAN \$75 MILLION.—If the assistance provided under this section is less than
16 \$75,000,000, the project shall be subject to the requirements set forth in subsection (c) of
17 this section only to the extent the Secretary determines appropriate.

18 “(e) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING
19 GRANT AGREEMENT.—Subsections (c) and (d) of this section do not apply to projects
20 for which the Secretary has issued a letter of intent or entered into a full funding grant
21 agreement before the date of enactment of the Federal Public Transportation Act of 2003.

22 “(f) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND
23 EARLY SYSTEMS WORK AGREEMENTS.—(1)(A) The Secretary may issue a letter
24 of intent to an applicant announcing an intention to obligate, for a major capital project
25 under this section, an amount from future available budget authority specified in law that
26 is not more than the amount stipulated as the financial participation of the Secretary in
27 the project. When a letter is issued for fixed guideway projects, the amount shall be
28 sufficient to complete at least an operable segment.

29 “(B) At least 30 days before issuing a letter under subparagraph (A) of this
30 paragraph or entering into a full funding grant agreement, the Secretary shall notify in
31 writing the Committee on Transportation and Infrastructure of the House of

1 Representatives and the Committee on Banking, Housing, and Urban Affairs of the
2 Senate and the House and Senate Committees on Appropriations of the proposed letter or
3 agreement. The Secretary shall include with the notification a copy of the proposed letter
4 or agreement as well as the evaluations and ratings for the project.

5 “(C) The issuance of a letter is deemed not to be an obligation under sections
6 1108(c) and (d), 1501, and 1502(a) of title 31, U.S.C., or an administrative commitment.

7 “(D) An obligation or administrative commitment may be made only when
8 amounts are appropriated.

9 “(2)(A) The Secretary may make a full funding grant agreement with an
10 applicant. The agreement shall—

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

13 “(ii) establish the maximum amount of Government financial assistance
14 for the project;

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

17 “(iv) make timely and efficient management of the project easier
18 according to the law of the United States.

19 “(B) An agreement under this paragraph obligates an amount of available budget
20 authority specified in law and may include a commitment, contingent on amounts to be
21 specified in law in advance for commitments under this paragraph, to obligate an
22 additional amount from future available budget authority specified in law. The agreement
23 shall state that the contingent commitment is not an obligation of the Government.

24 Interest and other financing costs of efficiently carrying out a part of the project within a
25 reasonable time are a cost of carrying out the project under a full funding grant
26 agreement, except that eligible costs may not be more than the cost of the most favorable
27 financing terms reasonably available for the project at the time of borrowing. The
28 applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown
29 reasonable diligence in seeking the most favorable financing terms. The amount
30 stipulated in an agreement under this paragraph for a fixed guideway project shall be
31 sufficient to complete at least an operable segment.

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

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

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

8 “(B) A work agreement under this paragraph obligates an amount of available budget
9 authority specified in law and shall provide for reimbursement of preliminary costs of
10 carrying out the project, including land acquisition, timely procurement of system
11 elements for which specifications are decided, and other activities the Secretary decides
12 are appropriate to make efficient, long-term project management easier. A work
13 agreement shall cover the period of time the Secretary considers appropriate. The period
14 may extend beyond the period of current authorization. Interest and other financing costs
15 of efficiently carrying out the work agreement within a reasonable time are a cost of
16 carrying out the agreement, except that eligible costs may not be more than the cost of the
17 most favorable financing terms reasonably available for the project at the time of
18 borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the
19 applicant has shown reasonable diligence in seeking the most favorable financing terms.
20 If an applicant does not carry out the project for reasons within the control of the
21 applicant, the applicant shall repay all Government payments made under the work
22 agreement plus reasonable interest and penalty charges the Secretary establishes in the
23 agreement.

24 “(4)(A) The total estimated amount of future obligations of the Government and
25 contingent commitments to incur obligations covered by all outstanding letters of intent,
26 full funding grant agreements, and early systems work agreements may be not more than
27 the greater of the amount authorized under section 5338(b) of this title for major capital
28 investment projects or an amount equivalent to the last 3 fiscal years of funding
29 authorized under section 5338(b)(3)(C) for major capital investment projects, less an
30 amount the Secretary reasonably estimates is necessary for grants under this section not
31 covered by a letter. The total amount covered by new letters and contingent commitments

1 included in full funding grant agreements and early systems work agreements may be not
2 more than a limitation specified in law.

3 “(B) Future obligations of the Government and contingent commitments made
4 against the contingent commitment authority under section 3032(g)(2) of the Intermodal
5 Surface Transportation Efficiency Act of 1991, Public Law 102-240, as amended, for the
6 San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005 and
7 2006 shall be charged against section 3032(g)(2) of that Act.

8 “(g) GOVERNMENT'S SHARE OF NET PROJECT COST.—(1) Based on
9 engineering studies, studies of economic feasibility, and information on the expected use of
10 equipment or facilities, the Secretary shall estimate the net project cost. A grant for the
11 project shall be for 50 percent of the net capital project cost, unless the grant recipient
12 requests a lower grant percentage.

13 “(2) The remainder--

14 “(A) shall be from an undistributed cash surplus, a replacement or
15 depreciation cash fund or reserve, or new capital; and

16 “(B) may include up to 30 percent from amounts appropriated to or made
17 available to a department or agency of the Federal Government that are eligible to be
18 expended for transportation.

19 “(3) In addition to amounts allowed pursuant to paragraph (1) of this subsection, a
20 planned extension to a fixed guideway system may include the cost of rolling stock
21 previously purchased if the applicant satisfies the Secretary that only amounts other than
22 amounts of the Government were used and that the purchase was made for use on the
23 extension. A refund or reduction of the remainder may be made only if a refund of a
24 proportional amount of the grant of the Government is made at the same time.

25 “(4) The prohibitions on the use of funds for matching requirements under section
26 403(a)(5)(C)(vii) of the Social Security Act shall not apply to amounts allowed pursuant
27 to paragraph (2) of this subsection.

28 “(5) This subsection does not apply to projects for which the Secretary of
29 Transportation has issued a letter of intent or entered into a full funding grant agreement
30 before the date of enactment of the Federal Public Transportation Act of 2003.

1 “(h) FISCAL CAPACITY CONSIDERATIONS.— If the Secretary gives priority
2 consideration to financing projects that include more than the non-Government share
3 required under subsection (g) of this section, the Secretary may also give consideration to
4 'high,' 'medium-high,' or 'medium' projects sponsored by grant applicants and State
5 and local governments of constrained fiscal capacity in selecting projects for full funding
6 grant agreements.

7 “(i) PRELIMINARY ENGINEERING.—Not more than 8 percent of the amounts
8 made available in each fiscal year to carry out this section may be available for
9 preliminary engineering.

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

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

16 “(B) the Secretary approves the payment; and

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

20 “(2) The cost of carrying out part of a project includes the amount of interest
21 earned and payable on bonds issued by the State or local governmental authority to the
22 extent proceeds of the bonds are expended in carrying out the part. However, the amount
23 of interest under this paragraph may not be more than the most favorable interest terms
24 reasonably available for the project at the time of borrowing. The applicant shall certify,
25 in a manner satisfactory to the Secretary, that the applicant has shown reasonable
26 diligence in seeking the most favorable financial terms.

27 “(3) The Secretary shall consider changes in capital project cost indices when
28 determining the estimated cost under paragraph (2) of this subsection.

29 “(k) USE OF DEOBLIGATED AMOUNTS.—An amount available under this
30 section that is deobligated may be used for any purpose under this section.

1 “(l) REPORTS.— (1) Not later than the first Monday in February of each year,
2 the Secretary shall submit to the Committee on Transportation and Infrastructure of the
3 House of Representatives and the Committee on Banking, Housing, and Urban Affairs of
4 the Senate, as well as the Subcommittee on Transportation of the Committees on
5 Appropriations of both Houses, a report that may include--

6 “(A) an allocation of amounts to be available to finance grants for capital
7 investment projects among applicants for these amounts;

8 “(B) an assessment of projects for funding based on the evaluations and
9 ratings and on existing commitments and anticipated funding levels for the next 3
10 fiscal years; and

11 “(C) detailed ratings and evaluations on each project listed.

12 “(2) The Secretary shall submit a report to Congress on the first Monday in
13 February, the first Monday in June, and the first Monday in October each year that
14 includes:

15 “(A) a summary of the ratings of all applicant's capital investment
16 projects;

17 “(B) detailed ratings and evaluations on each applicant project with
18 significant changes to the finance or project proposal or has completed
19 alternatives or preliminary engineering since the date of the last report; and

20 “(C) all relevant information that support the evaluation and rating of each
21 updated project, including a summary of each updated project’s financial plan.

22 “(m) PROJECT DEFINED.—In this section, the term 'major capital investment
23 project' with respect to a new fixed guideway system or extension to an existing fixed
24 guideway system, means a minimum operable segment of the project.”.

**25SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND
26DEPLOYMENT PROJECTS.**

27 “(a) IN GENERAL.--Section 5312 is amended--

28 (1) in subsection (a),

29 (A) by striking "or contracts" and inserting ", contracts,
30 cooperative agreements, or other transactions";

31 (B) by striking "help reduce urban transportation needs,";

1 (C) by striking "urban" each place it appears; and
2 (D) by striking "and demonstration projects related" and inserting
3 ", demonstration or deployment projects, or evaluation of technology of
4 national significance";
5 (2) by striking subsections (b) and (c);
6 (3) by redesignating subsections (d) and (e) as (b) and (c), respectively.
7 (4) in subsection (b)(2), as redesignated, by striking "other agreements"
8 and inserting "other transactions";
9 (5) in subsection (b)(3), as redesignated, by striking "50" and inserting
10 "80";
11 (6) in subsection (b)(4), by adding the following sentence at the end:
12 "The evaluation criteria shall include consideration of a share of consortium contributions
13 to the overall research costs.";
14 (7) in subsection (c)(2), as redesignated, by striking "and" and inserting
15 "or" before "private"; and
16 (8) in subsections (b)(5) and (c)(3), as redesignated, by striking "within
17 the Mass Transit Account of the Highway Trust Fund".
18 (b) CONFORMING AMENDMENTS.--(1) Section 5312 is amended by striking
19 the section heading and inserting the following:
20 **"§ 5312. Research, development, demonstration, and deployment projects".**
21 (2) The item relating to section 5312 in the table of sections is amended to read as
22 follows:
23 "5312. Research, development, demonstration, and deployment projects."
24 **SEC. 3014. COOPERATIVE RESEARCH GRANT PROGRAM.**
25 (a) IN GENERAL.--Section 5313 is amended—
26 (1) in subsection (a) by—
27 (A) striking "(1)";
28 (B) striking "paragraphs (1) and (2)(C)(ii) of section 5338(d) and
29 inserting "5338(a)(2)(F)(iii)(I) and (III)"; and
30 (C) striking "(2)" and inserting "(b) Federal Assistance.--";
31 (2) by striking subsection (b); and

1 (3) in subsection (c), by striking "subsection (a) of".

2 (b) CONFORMING AMENDMENTS.--(1) Section 5313 is amended by striking
3 the section heading and inserting the following:

4 “§ 5313. Cooperative research program”.

5 (2) The item relating to section 5313 in the table of sections is amended to read as
6 follows:

7 "5313. Cooperative research program."

8 **SEC. 3015. NATIONAL RESEARCH PROGRAMS.**

9 (a) IN GENERAL.--Section 5314 is amended—

10 (1) in the section heading, by striking “planning and”;

11 (2) in subsection (a)(1), by—

12 (A) striking “subsections (d) and (h)(7) of section 5338” and
13 inserting “section 5338(a)(2)(F)”;

14 (B) striking "and contracts" and inserting ", contracts, cooperative
15 agreements, or other transactions"; and

16 (C) striking “5317,”;

17 (3) in the first sentence of subsection (a)(3), by striking all that follows
18 “chapter”;

19 (4) by striking subsection (a)(4)(B);

20 (5) by redesignating subsection (a)(4)(C) as subsection (a)(4)(B); and

21 (6) in subsection (b), by striking "or contract" and all that follows in the
22 first sentence, and inserting ", contract, cooperative agreement, or other
23 transaction under subsection (a) of this section or section 5312."

24 (b) CONFORMING AMENDMENTS.--The item relating to section 5314 in the
25 table of sections is amended to read as follows:

26 "5314. National research programs."

27 **SEC. 3016. NATIONAL TRANSIT INSTITUTE.**

28 Section 5315 is amended—

29 (1) in subsection (a) —

30 (A) by striking “public mass transportation” and inserting “public
31 transportation” each place it appears;

1 (B) by striking “mass” after “Government-aid” and inserting
2 “public”; and
3 (C) in paragraphs (1), (6), (7), and (10) by striking “mass” each
4 place it appears before “transportation” and inserting “public”;
5 (2) by striking subsection (b);
6 (3) by redesignating subsections (c) and (d) as subsections (b) and (c),
7 respectively; and
8 (4) in subsection (c), as redesignated, by striking “mass” each place it
9 appears.

10 **SEC. 3017. BUS TESTING FACILITY.**

11 Section 5318 is amended—

12 (1) by revising subsection (a) to read as follows:

13 “(a) FACILITY.--The Secretary of Transportation shall maintain one facility for
14 testing a new bus model for maintainability, reliability, safety, performance (including
15 braking performance), structural integrity, fuel economy, emissions, and noise.”;

16 (2) in subsection (d), by striking “section 5309(m)(1)(C)” and inserting
17 section 5338(a)(2)(I); and

18 (3) by revising subsection (e) to read as follows:

19 “(e) ACQUIRING NEW BUS MODELS.--Amounts appropriated or made
20 available under this chapter may be obligated or expended to acquire a new bus model
21 only if a bus of that model has been tested at the facility maintained by the Secretary
22 under subsection (a).”.

23 **SEC. 3018. BICYCLE FACILITIES.**

24 Section 5319 is amended by striking “5309(h),” and inserting “ 5309(g),”.

25 **SEC. 3019. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.**

26 Section 5320 is repealed.

27 **SEC. 3020. GENERAL PROVISIONS ON ASSISTANCE.**

28 Section 5323 is amended—

29 (1) In paragraph (a)(1), by—

30 (A) striking “private mass transportation company” each place it
31 appears and inserting “private company engaged in public transportation”;

1 (B) striking “mass transportation equipment or a mass
2 transportation facility” and inserting “a public transportation facility or
3 equipment”; and

4 (C) striking “mass transportation company” and inserting “public
5 transportation company”;

6 (2) in subsection (a)(1)(B), by striking “private mass transportation
7 companies” and inserting “private companies engaged in public transportation”;

8 (3) in subsection (b),

9 (A) in paragraph (1),

10 (i) by striking “or loan”; and

11 (ii) by striking “a certificate of the applicant” and inserting

12 “in the environmental record for the project evidence”; and

13 (B) in subparagraph (A) of paragraph (1), by striking “a public
14 hearing with adequate prior notice” and inserting “public review and
15 comment on the project;

16 (C) by amending subparagraph (B) of paragraph (1) to read as
17 follows:

18 “(B) held a public hearing on the project if it affects significant
19 economic, social, or environmental interests;”;

20 (4) in paragraph (2), by striking the last sentence;

21 (5) by revising subsection (c) to read as follows:

22 “(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter
23 for new technology, including innovative or improved products, techniques, or methods
24 is subject to the requirements of section 5309 of this title to the extent the Secretary
25 considers appropriate.”;

26 (6) in subsection (d),

27 (A) by revising paragraph (2) to read as follows:

28 “(2) The Secretary may waive paragraph (1) of this subsection if the Secretary
29 finds that the provision of intercity charter bus transportation service by the applicant,
30 governmental authority, or publicly owned operator is necessary to meet the
31 transportation needs of the elderly and individuals with disabilities.”; and

1 (B) by adding at the end the following paragraph:

2 "(3) On receiving a complaint about a violation of the agreement required under
3 paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.
4 If the Secretary decides that a violation has occurred, the Secretary shall correct the
5 violation under terms of the agreement. In addition to any remedy specified in the
6 agreement, the Secretary shall bar a recipient or an operator from receiving Federal
7 transit assistance in an amount the Secretary deems appropriate.";

8 (7) by striking subsection (e);

9 (8) by redesignating subsection (f) as (e);

10 (9) in subsection (e), as redesignated,--

11 (A) by revising paragraph (2) to read as follows:

12 "(2) The Secretary may waive paragraph (1) of this subsection if the Secretary
13 finds that the provision of schoolbus transportation by the applicant, governmental
14 authority, or publicly owned operator is necessary to meet the transportation needs of
15 students with disabilities."; and

16 (B) by adding at the end the following paragraph:

17 "(3) If the Secretary finds that an applicant, governmental authority, or publicly
18 owned operator has violated the agreement required under paragraph (1) of this
19 subsection, the Secretary shall bar a recipient or an operator from receiving Federal
20 transit assistance in an amount the Secretary deems appropriate.";

21 (10) by revising subsection (f) to read as follows:

22 "(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—(1)
23 Notwithstanding any other provision of law, a recipient of assistance under sections 5307
24 or 5309 of this chapter, may use the proceeds from the issuance of revenue bonds as part
25 of the local matching funds for a capital project.

26 "(2) The Secretary may reimburse an eligible recipient for deposits of bond
27 proceeds in a debt service reserve that recipient established pursuant to section
28 5302(a)(1a)(K) of this title from amounts made available to the recipient under sections
29 5307 or 5309 of this title.";

30 (11) in subsection (g), by--

31 (A) striking "(f)" and inserting "(e)";

1 (B) striking “103(e)(4) and” in the first and second sentence and
2 inserting “133”; and

3 (C) striking (f)(1)(C) and inserting “(e)(1)(C)”;

4 (12) by revising subsection (h) to read as follows:

5 “(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE
6 UNITED STATES.—(1) If the Secretary determines that any part of the lands or interests
7 in lands owned by the United States and made available as a result of a military base
8 closure is necessary for transit purposes eligible under this chapter, including corridor
9 preservation, the Secretary shall file with the Secretary of the Department supervising the
10 administration of such lands or interests in lands a map showing the portion of such lands
11 or interests in lands which is desired to be transferred for public transportation purposes.

12 “(2) If within four months after such filing, the Secretary of such Department
13 shall not have certified to the Secretary that the proposed appropriation of such land is
14 contrary to the public interest or inconsistent with the purposes for which such land has
15 been reserved, or shall have agreed to the appropriation and transfer under conditions
16 which the Secretary of such Department deems necessary for the adequate protection and
17 utilization of the reserve, then such land and materials may be appropriated and
18 transferred to a State, or local government, or public transportation operator for such
19 purposes and subject to the conditions so specified.

20 “(3) If at any time such lands are no longer needed for public transportation
21 purposes, notice shall be given by the State, or local government, or public transportation
22 operator that received the land, to the Secretary, and such lands shall immediately revert
23 to the control of the Secretary of the Department from which the land was originally
24 transferred.”;

25 (13) in subsection (j),

26 (A) by revising paragraph (1) to read as follows:

27 “(1)(A) The Secretary may obligate an amount that may be appropriated to carry
28 out this chapter for a project only if the steel, iron, rolling stock, and components and
29 subcomponents of the rolling stock used in the project are produced in the United States.

30 “(B) When procuring rolling stock (including train control, communication, and
31 traction power equipment) under this chapter—

1 “(i) the cost of components and subcomponents produced in the United
2 States shall be more than 60 percent of the cost of all components of the rolling
3 stock; and

4 “(ii) final assembly of the rolling stock shall occur in the United States.

5 “(C) In this subsection, labor costs involved in final assembly are not included in
6 calculating the cost of components.”;

7 (B) in paragraph (2)(B),—

8 (i) by striking “and goods” and inserting “rolling stock, and
9 the components and subcomponents of rolling stock”; and

10 (ii) by adding “or” at the end;

11 (C) by striking paragraph (2)(C);

12 (D) by redesignating paragraph (2)(D) as paragraph (2)(C);

13 (E) by striking paragraph (3) and redesignating paragraphs (4),
14 (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively;

15 (F) in paragraph (4), as redesignated, by striking “Intermodal
16 Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105
17 Stat. 1914” and inserting “Safe, Accountable, Flexible, and Efficient
18 Transportation Equity Act of 2003”;

19 (14) by revising subsection (l) to read as follows:

20 “(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18, U.S.C.,
21 applies to a certificate, submission, or statement provided under this chapter. The
22 Secretary may terminate financial assistance under this chapter and seek reimbursement
23 directly, or by offsetting amounts, available under this chapter, when a false or fraudulent
24 statement or related act within the meaning of section 1001 is made in connection with a
25 Federal transit program.”;

26 (15) in subsection (m), by inserting at the end the following:

27 “Requirements to perform preaward and postdelivery reviews of rolling stock purchases
28 to ensure compliance with subsection (j) of this section do not apply to private nonprofit
29 organizations or to grantees serving areas with fewer than one million people.”;

30 (16) in subsection (o) by striking “the Transportation Infrastructure
31 Finance and Innovation Act of 1998” and inserting “23 U.S.C. 188”.

1 **SEC. 3021. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.**

2 (a) IN GENERAL.--Section 5324 is amended to read as follows:

3 “§ 5324. Special provisions for capital projects

4 “(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real
5 property is acquired and furnished as a required contribution incident to a project, the
6 Secretary may not approve the application for financial assistance unless the applicant
7 has made all payments and provided all assistance and assurances as are required of a
8 State agency under Sections 210 and 305 of the Uniform Relocation Assistance and Real
9 Property Acquisition Policies Act, as amended (Uniform Act). The Secretary must be
10 advised of specific references to any State law that are believed to be an exception to
11 Sections 301 or 302 of the Uniform Act.

12 “(b) ADVANCE REAL PROPERTY ACQUISITIONS.—(1) The Secretary may
13 participate in the acquisition of real property prior to completion of the environmental
14 reviews for any project that may use the property if the Secretary determines that external
15 market forces are jeopardizing the potential use of the property for the project, given any
16 of the following conditions—

17 “(A) there are offers on the open real estate market to convey that property
18 for a use or uses incompatible with the project under study;

19 “(B) there is an imminent threat of development or redevelopment of the
20 property for use or uses incompatible with the project under study;

21 “(C) recent appraisals reflect a rapid increase in the fair market value of
22 the property;

23 “(D) the property, because it is located near an existing transportation
24 facility, is likely to be developed, but also likely to be needed for a future
25 transportation improvement; or

26 “(E) the property owner can demonstrate that, for health, safety, or
27 financial reasons, retaining ownership of the property poses an undue hardship on
28 the owner in comparison to other affected property owners and requests the
29 acquisition to alleviate that hardship.

30 “(2) Property acquired in accordance with this subsection may not be developed
31 in anticipation of the project until the Secretary has complied with the National

1 Environmental Policy Act and the applicable provisions of the Department of
2 Transportation Act for protection of publicly owned park lands, wildlife and waterfowl
3 refuges, and historic sites.

4 “(3) The Secretary shall limit the size and number of properties acquired in
5 accordance with this subsection as necessary to avoid any prejudice to the Secretary's
6 objective evaluation of project alternatives.

7 “(4) An acquisition undertaken pursuant to this section shall be considered to be
8 an exempt project under section 176 of the Clear Air Act and its implementing
9 regulations.”

10 “(c) RAILROAD CORRIDOR PRESERVATION.—(1) The Secretary may assist
11 an applicant in the acquisition of a pre-existing railroad right-of-way prior to completion
12 of the environmental reviews for any project that may use the right-of-way if the
13 acquisition is otherwise permitted under Federal law; furthermore, the Secretary may
14 establish restrictions on such an acquisition as the Secretary deems necessary and
15 appropriate.

16 “(2) Railroad right-of-way acquired in accordance with this subsection may not be
17 developed in anticipation of the project until the Secretary has complied with the
18 National Environmental Policy Act and the applicable provisions of the Department of
19 Transportation Act for protection of publicly owned park lands, wildlife and waterfowl
20 refuges, and historic sites.

21 “(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND
22 ENVIRONMENTAL INTERESTS.—(1) In carrying out section 5301(e) of this chapter,
23 the Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and
24 Urban Development, and the Administrator of the Environmental Protection Agency on
25 each project that may have a substantial impact on the environment.

26 “(2) In performing environmental reviews, the Secretary shall consider the public
27 comments on a project submitted under section 5323(b) of this title and ensure that an
28 adequate opportunity to present views was given to all parties having a significant
29 economic, social, or environmental interest in the project, and that the project application
30 includes a record of—

31 “(A) the environmental impact of the proposal;

1 “(B) adverse environmental effects that cannot be avoided;

2 “(C) alternatives to the proposal; and

3 “(D) irreversible and irretrievable impacts on the environment.

4 “(3)(A) The Secretary may approve an application for financial assistance for a
5 capital project in accordance with this chapter only if the Secretary makes written
6 findings, after reviewing the environmental record included with the project application,
7 that—

8 “(i) an adequate opportunity to present views was given to all parties
9 having a significant economic, social, or environmental interest;

10 “(ii) the preservation and enhancement of the environment and the interest
11 of the community in which the project is located were considered; and

12 “(iii) no adverse environmental effect is likely to result from the project,
13 or no feasible and prudent alternative to the effect exists and all reasonable steps
14 have been taken to minimize the effect.

15 “(B) The Secretary’s findings under subparagraph (A) of this paragraph shall be
16 made a matter of public record.”.

17 (b) CONFORMING AMENDMENT.—The item relating to section 5324 in the
18 table of sections for chapter 53 is amended to read as follows:

19 “5324. Special provisions for capital projects.”.

20 **SEC. 3022. CONTRACT REQUIREMENTS.**

21 (a) IN GENERAL.-- Section 5325 is amended—

22 (1) by revising subsection (a) to read as follows:

23 “(a) COMPETITION. —Recipients of Federal assistance under this
24 chapter shall conduct all procurement transactions in a manner providing full and
25 open competition as determined by the Secretary.”;

26 (2) by revising subsection (b) to read as follows:

27 “(b) ARCHITECTURAL, ENGINEERING, AND DESIGN
28 CONTRACTS. —A contract or requirement for program management,
29 architectural engineering, construction management, a feasibility study, and
30 preliminary engineering, design, architectural, engineering, surveying, mapping,
31 or related services for a project for which Federal assistance is provided under this

1 chapter shall be awarded in the same way as a contract for architectural and
2 engineering services is negotiated under chapter 11 of title 40, U.S.C., or an
3 equivalent qualifications-based requirement of a State. This subsection does not
4 apply to the extent a State has adopted or adopts by law a formal procedure for
5 procuring those services. When awarding such contracts, recipients of assistance
6 under this chapter shall maximize efficiencies of administration by accepting non-
7 disputed audits conducted by other governmental agencies as follows:

8 “(1) Any contract or subcontract awarded under this chapter shall
9 be performed and audited in compliance with cost principles contained in
10 the Federal Acquisition Regulation, part 31 of title 48, Code of Federal
11 Regulations.

12 “(2) Instead of performing its own audits, a recipient of funds
13 under a contract or subcontract awarded under this chapter shall accept
14 indirect cost rates established in accordance with the Federal Acquisition
15 Regulations for one-year applicable accounting periods by a cognizant
16 Federal or State government agency, if such rates are not currently under
17 dispute.

18 “(3) Once a firm's indirect cost rates are accepted under this
19 paragraph, the recipient of the funds shall apply such rates for the
20 purposes of contract estimation, negotiation, administration, reporting, and
21 contract payment, and shall not be limited by administrative or de facto
22 ceilings.

23 “(4) A recipient of funds requesting or using the cost and rate data
24 described in paragraph (3) shall notify any affected firm before such
25 request or use. Such data shall be confidential and shall not be accessible
26 or provided, in whole or in part by the group of agencies sharing cost data
27 under this paragraph, except by written permission of the audited firm. If
28 prohibited by law, such cost and rate data shall not be disclosed under any
29 circumstances.”;

30 (3) by inserting new subsections (d) through (h), after subsection (c), to
31 read as follows:

1 "(d) DESIGN-BUILD SYSTEM PROJECTS. — (1) 'design-build system
2 project' means a project under which a recipient enters into a contract with a
3 seller, firm, or consortium of firms to design and build a public transportation
4 system or an operable segment thereof that meets specific performance criteria.
5 Such project may also include an option to finance, or operate for a period of
6 time, the system or segment or any combination of designing, building, operating,
7 or maintaining such system or segment.

8 "(2) Government financial assistance under this chapter may be
9 made available for the capital costs of a design-build system project after the
10 recipient complies with Government requirements.

11 "(e) MULTIYEAR ROLLING STOCK.—(1) A recipient procuring rolling stock
12 with Government financial assistance under this chapter may make a multiyear contract,
13 including options, to buy not more than 5 years of requirements for rolling stock and
14 replacement parts.

15 "(2) The Secretary shall allow a recipient to act on a cooperative basis to procure
16 rolling stock in compliance with this subsection and other Government procurement
17 requirements.

18 "(f) ACQUIRING ROLLING STOCK. —A recipient of financial assistance
19 under this chapter may enter into a contract to expend that assistance to acquire rolling
20 stock —

21 "(1) based on—

22 "(A) initial capital costs; or

23 "(B) performance, standardization, life cycle costs, and other
24 factors; or

25 "(2) with a party selected through a competitive procurement process.

26 “(g) EXAMINATION OF THE RECORDS.—Upon request, the Secretary and
27 the Comptroller General, or any of their representatives, shall have access to and the right
28 to examine and inspect all records, documents, papers, including contracts, related to a
29 projects for which a grant is made under this chapter.

30 “(h) GRANT PROHIBITIONS.—A grant may not be used to support a
31 procurement that uses an exclusionary or discriminatory specification.”.

1 (b) CONFORMING AMENDMENTS. —Chapter 53 of title 49, United States
2 Code, is amended by—

3 (1) repealing section 5326; and

4 (2) striking "5326. Special Procurements." in the table of sections for chapter 53.

5 **SEC. 3023. HUMAN RESOURCE PROGRAMS.**

6 (a) IN GENERAL-- Section 5322 is amended--

7 (1) by inserting "(a) IN GENERAL.--" before the beginning of the first
8 sentence of the section; and

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

10 "(b) GRANTS TO HIGHER LEARNING INSTITUTIONS.--(1) The
11 Secretary (or the Secretary of Housing and Urban Development when required by
12 section 5334(i) of this title) may make grants to nonprofit institutions of higher
13 learning--

14 "(A) to conduct competent research and investigations into
15 the theoretical or practical problems of urban transportation; and

16 "(B) to train individuals to conduct further research or
17 obtain employment in an organization that plans, builds, operates,
18 or manages an urban transportation system.

19 "(2) Research and investigations under this subsection include--

20 "(A) the design and use of urban public transportation
21 systems and urban roads and highways;

22 "(B) the interrelationship between various modes of urban
23 and interurban transportation;

24 "(C) the role of transportation planning in overall urban
25 planning;

26 "(D) public preferences in transportation;

27 "(E) the economic allocation of transportation resources;

28 and

29 "(F) the legal, financial, engineering, and esthetic aspects of
30 urban transportation.

1 "(3) When making a grant under this subsection, the Secretary
2 shall give preference to an institution that brings together knowledge and
3 expertise in the various social science and technical disciplines related to
4 urban transportation problems.

5 "(c) FELLOWSHIPS.--(1) The Secretary may make grants to States, local
6 governmental authorities, and operators of public transportation systems to
7 provide fellowships to train personnel employed in managerial, technical, and
8 professional positions in the mass transportation field.

9 "(2) A fellowship under this subsection may be for not more than one year
10 of training in an institution that offers a program applicable to the public
11 transportation industry. The recipient of the grant shall select an individual on the
12 basis of demonstrated ability and for the contribution the individual reasonably
13 can be expected to make to an efficient public transportation operation. A grant
14 for a fellowship may not be more than the lesser of \$65,000 or 75 percent of-

15 "(A) tuition and other charges to the fellowship recipient;

16 "(B) additional costs incurred by the training institution and billed
17 to the grant recipient; and

18 "(C) the regular salary of the fellowship recipient for the period of
19 the fellowship to the extent the salary is actually paid or reimbursed by the
20 grant recipient."

21 "(d) OTHER GRANTS.-- The Secretary may make grants to State and
22 local governmental authorities for projects that will use innovative techniques and
23 methods in managing and providing public transportation.

24 **SEC. 3024. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.**

25 (a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is
26 amended—

27 (1) by striking “and” at the end of paragraph 11;

28 (2) in paragraph 12, by striking the “.” and inserting “; and”; and

29 (3) by adding after paragraph (12) the following:

30 “(13) safety and security management.”.

1 (b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is
2 amended—

3 (1) in paragraph (1),

4 (A) by striking “.5” and inserting “1”;

5 (B) by striking “5307, 5309, or 5311 of this title, an interstate
6 transfer mass transportation project under section 103(e)(4) of title 23 as
7 in effect on September 30, 1991,” and inserting “5307-5311, 5316, or
8 5317 of this title,”;

9 (C) by striking “to make a contract”;

10 (D) by striking “a major project” and inserting “major projects”;

11 and

12 (E) by striking “section 5307, 5309, 5311, or 103(e)(4)” and
13 inserting “sections 5307-5311, 5316, 5317,”;

14 (2) in paragraph (2), by inserting “and security” after “safety”; and

15 (3) by redesignating paragraph (3) as (4) and inserting a new paragraph

16 (3), as follows:

17 “(3) The Secretary shall deduct a sum in an amount that the Secretary determines
18 necessary to administer this section from the amounts made available under paragraph (1)
19 of this subsection. These funds shall be in addition to any other funds made available for
20 these purposes, and shall remain available until expended.”.

21 **SEC. 3025. PROJECT REVIEW.**

22 Section 5328 is repealed.

23 **SEC. 3026. INVESTIGATIONS OF SAFETY AND SECURITY RISK.**

24 (a) IN GENERAL.--Section 5329 is amended to read as follows:

25 **“§ 5329. Investigation of safety and security risks**

26 “The Secretary may conduct investigations into safety and security risks
27 associated with a condition in equipment, a facility, or an operation financed under this
28 chapter to establish the nature and extent of the condition and how to eliminate, mitigate,
29 or correct it. If the Secretary establishes that a safety or security risk warrants further
30 protective measures, the Secretary shall require the local governmental authority
31 receiving amounts under this chapter to submit a plan for eliminating, mitigating, or

1 correcting it. Any such plan relating to security risks shall be developed in consultation
2 with the Secretary of Homeland Security. Financial assistance under this chapter, in an
3 amount to be determined by the Secretary, may be withheld until a plan is approved and
4 carried out.”.

5 (b) CONFORMING AMENDMENT.—The item relating to section 5329 in the
6 table of sections for chapter 53 is amended to read as follows:

7 “5329. Investigation of safety and security risks.”.

8 **SEC. 3027. STATE SAFETY OVERSIGHT.**

9 (a) IN GENERAL.--Section 5330 is amended—

10 (1) by striking the heading “Withholding Amounts for Noncompliance
11 with Safety Requirements” and inserting “State Safety Oversight”;

12 (2) in subsection (a), by striking the text and inserting the following
13 "This section applies only to--

14 "(1) States that have rail fixed guideway public transportation systems not
15 subject to regulation by the Federal Railroad Administration; and

16 “(2) States that are designing rail fixed guideway public transportation
17 systems that will not be subjected to regulation by the Federal Railroad
18 Administration.”;

19 (3) in subsection (d) by inserting “shall ensure uniform safety standards
20 and enforcement and” after “affected States”; and

21 (4) by striking subsection (f).

22 (b) CONFORMING AMENDMENT.--The item relating to section 5330 in the
23 table of sections for chapter 53 is amended to read as follows:

24 "5330. State safety oversight.”.

25 **SEC. 3028. SENSITIVE SECURITY INFORMATION.**

26 Section 40119(b) is amended—

27 (1) in paragraph (1)(C) by striking "transportation safety" and inserting
28 “the safety of transportation facilities or infrastructure, or transportation
29 employees”; and

30 (2) by adding at the end a new paragraph (3), to read as follows:

31 “(3) A State or local government may not enact, enforce, prescribe, issue, or

1 continue in effect any law, regulation, standard, or order to the extent it is inconsistent
2 with this section or regulations prescribed under this section."

3 **SEC. 3029. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE**
4 **AGAINST PUBLIC TRANSPORTATION SYSTEMS.**

5 (a) IN GENERAL.--Section 1993 of title 18, U.S.C., is amended—

6 (1) by striking “mass” in each place it appears before “transportation” and
7 inserting “public”;

8 (2) in subsection (a)(5), by inserting “controlling,” after “operating”; and

9 (3) in subsection (c)(5), by striking “5302(a)(7)” and inserting “5302(a)”.

10 (b) CONFORMING AMENDMENT.--The item related to section 1993 in the
11 table of contents for chapter 97 of title 18, U.S.C. is amended to read as follows:

12 "1993. Terrorist attacks and other acts of violence against public transportation systems."

13 **SEC. 3030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.**

14 (a) DEFINITIONS.—Section 5331(a)(3) is amended by inserting after "title" the
15 following: ", or sections 2303a, 7101(i), 7302(e) of title 46, United States Code. The
16 Secretary may also decide that a form of public transportation is covered adequately, for
17 employee alcohol and controlled substances testing purposes, under the alcohol and
18 controlled substance statutes or regulations of an agency within the Department of
19 Transportation or other Federal agency."

20 (b) REGULATIONS.—Section 5331(f) is amended by striking paragraph (3).

21 **SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

22 Section 5333(b)(1) is amended by striking “5318(d), 5323(a)(1), (b), (d), and (e),
23 5328, 5337, and 5338(b)” each place it appears and inserting “5316-5318, 5323(a)(1),
24 (b), and (c), 5337, and 5338(b)(3)(C)”.

25 **SEC. 3032. ADMINISTRATIVE PROCEDURES.**

26 Section 5334 is amended—

27 (1) in subsection (a),

28 (A) by striking “and” at the end of paragraph (9);

29 (B) by striking the period at the end of paragraph (10) and inserting
30 "; and"; and

31 (C) by inserting after paragraph (10) the following:

1 “(11) issue regulations as necessary to carry out the purposes of
2 this chapter.”;

3 (2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as
4 subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k);

5 (3) by adding a new subsection (b) after subsection (a), to read as follows:

6 “(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND
7 CHARGES.— Except as directed by the President for purposes of national
8 defense or in the event of a national or regional emergency, the Secretary may not
9 regulate the operation, routes, or schedules of a public transportation system for
10 which a grant is made under this chapter, nor may the Secretary regulate the rates,
11 fares, tolls, rentals, or other charges prescribed by any public or private
12 transportation provider; provided, however, that nothing in this subsection shall
13 prevent the Secretary from requiring a recipient of funds under this chapter to
14 comply with the terms and conditions of its Federal assistance agreement.”; and

15 (4) in subsection (j)(1), as redesignated,

16 (A) by striking "carry" and inserting "advise and assist the
17 Secretary in carrying"; and

18 (B) by striking "and (b)(1)" and insert "5322(b)(1)".

19 **SEC. 3033. REPORTS AND AUDITS.**

20 Section 5335 is amended--

21 (1) in subsection (a), by--

22 (A) striking "(1)"; and

23 (B) striking "(2)" and inserting "(b) REPORTING AND
24 UNIFORM SYSTEMS.--"; and

25 (2) by striking subsection (b).

26 **SEC. 3034. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA**
27 **GRANTS.**

28 (a) IN GENERAL.—Section 5336 is amended by--

29 (1) striking subsection (d);

30 (2) striking subsection (k);

1 (3) redesignating subsections (a) through (c) as subsections (b) through
2 (d), respectively; and

3 (4) adding a new subsection (a) as follows:

4 “(a) APPORTIONMENT OF ALLOCATIONS.— Of the amounts allocated
5 under section 5338(a)(2)(P) of this title--

6 (1) the following percentages shall be apportioned to each urbanized area
7 in accordance with subsection (k) of this section:

8 "(A) One percent in fiscal year 2004.

9 "(B) Three percent in fiscal year 2005.

10 "(C) Five percent in fiscal year 2006.

11 "(D) Seven percent in fiscal year 2007.

12 "(E) Nine percent in fiscal year 2008.

13 "(F) Ten percent in every fiscal year thereafter.

14 “(2) the remaining portion shall be apportioned to each urbanized area in
15 accordance with subsections (b) through (d) of this section.”.

16 (b) BASED ON URBANIZED AREA POPULATION.— Subsection (b), as
17 redesignated, is amended—

18 (1) by striking “Of the amount made available or appropriated under
19 section 5338(a) of this title” and inserting “Of the amount to be apportioned under
20 subsection (a)(2) of this section”; and

21 (2) in paragraph (2), by striking “subsections (b) and (c)” and inserting
22 “subsections (c) and (d)”.

23 (c) BASED ON FIXED GUIDEWAY REVENUE VEHICLE-MILES, ROUTE-
24 MILES, AND PASSENGER-MILES.—Subsection (c)(2), as redesignated, is amended
25 by striking “subsection (a)(2)” and inserting “subsection (b)(2)”.

26 (d) BASED ON BUS REVENUE VEHICLE-MILES AND PASSENGER-
27 MILES.— Subsection (d), as redesignated, is amended by striking “subsection (a)(2)”
28 and inserting “subsection (b)(2)”.

29 (e) DATE OF APPORTIONMENT.—Subsection (e)(1) is amended by striking
30 “subsections (a) and (h)(2) of section 5338” and inserting “section 5338(a)(2)(P)”.

1 (f) TRANSFERS OF APPORTIONMENTS.—Subsection (g) is amended by
2 striking “subsection (a)(1)” and inserting “subsection (b)(1)” each time it appears.

3 (g) APPORTIONMENT BASED ON INCENTIVE FACTORS.—Section 5336 is
4 amended by adding a new subsection (k) as follows:

5 “(k) APPORTIONMENT BASED ON INCENTIVE FACTORS.— (1) Of the
6 amounts apportioned under subsection (a)(1) of this section, the Secretary may
7 use the following amounts to make grants to establish data collection systems
8 capable of collecting the data in paragraph (3) of this subsection:

9 “(A) \$25,000,000 in fiscal year 2004.

10 “(B) \$15,000,000 in fiscal year 2005.

11 “(C) \$5,000,000 in fiscal year 2006.

12 “(2) Amounts under paragraph (1) of this subsection not obligated within
13 three years following the end of the fiscal year in which those amounts became
14 available shall be available for apportionment under paragraph (3) of this
15 subsection.

16 “(3) The remaining amounts to be apportioned under subsection (a)(1) of
17 this section shall be apportioned by a formula determined by the Secretary that
18 distributes funds based on increases in public transportation patronage.

19 “(4) In apportioning funds under this subsection, the Secretary may
20 consider the efficiency of service provision in the urbanized area.”;

21 “(5) The Secretary shall not apportion any amounts under this subsection
22 to an urbanized area that experiences a significant decline, as determined by the
23 Secretary, in public transportation patronage by elderly individuals, individuals
24 with disabilities, or low income persons.”

25 **SEC. 3035. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS.**

26 (a) SECTION HEADING.—Section 5337 is amended by striking the section
27 heading and inserting the following:

28 “§ 5337. Apportionment based on fixed guideway factors”.

29 (b) DISTRIBUTION—The text of subsection 5337(a) before the first colon is
30 amended to read as follows:

1 "Amounts made available under section 5338(a)(2)(N) of this title are apportioned as
2 follows:";

3 (c) IN GENERAL.—Section 5337 is amended by—

4 (1) striking “section 5336(b)(2)(A)” each place it appears and inserting
5 “section 5336(c)(2)(A)”;

6 (2) striking subsection (e); and

7 (3) redesignating subsection (f) as subsection (e).

8 (c) CONFORMING AMENDMENT—The item relating to section 5337 in the
9 table of sections for chapter 53 is amended to read as follows:

10 “5337. Apportionment based on fixed guideway factors.”.

11 **SEC. 3036. AUTHORIZATIONS.**

12 The text of section 5338 is amended to read as follows:

13 “(a) FORMULA GRANTS AND RESEARCH.—(1) There shall be available
14 from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305,
15 5307, 5308, 5310-5318, 5322, 5335, 5505, and 5570-5575 of this title, and section 3038
16 of Public Law 105-178--

17 “(A) \$5,615,406,000 for fiscal year 2004;

18 “(B) \$5,727,714,000 for fiscal year 2005;

19 “(C) \$5,846,851,000 for fiscal year 2006;

20 “(D) \$5,978,405,000 for fiscal year 2007;

21 “(E) \$6,126,071,000 for fiscal year 2 008; and

22 “(F) \$6,274,935,000 for fiscal year 2009.

23 “(2) Of the aggregate of amounts made available under this sub section for a fiscal
24 year,

25 “(A) 1.25 percent shall be available to carry out section 5305 in the fiscal
26 year 2004;

27 “(B) 2 percent shall be available to carry out section 5305 in fiscal years
28 2005 through 2009;

29 “(C) the following amounts shall be available to carry out section 5335--

30 “(i) \$3,500,000 in fiscal year 2004;

31 “(ii) \$3,700,000 in fiscal year 2005;

1 "(iii) \$3,900,000 in fiscal year 2006;
2 "(iv) \$4,100,000 in fiscal year 2007;
3 "(v) \$4,300,000 in fiscal year 2008; and
4 "(vi) \$4,500,000 in fiscal year 2009;
5 "(D) \$4,849,950 shall be available for grants to the Alaska Railroad for
6 improvements to its passenger operations in lieu of receiving an apportionment
7 under section 5336 of this title;
8 "(E) \$6,950,000 shall be available to carry out section 3038 of the
9 Transportation Equity Act for the 21st Century, *as amended*;
10 "(F) the following amounts shall be available to carry out transit
11 cooperative research programs under section 5313, the National Transit Institute
12 under section 5315, and national research programs under sections 5312, 5313,
13 5314, and 5322:
14 “(i) \$43,750,000 in fiscal year 2004;
15 “(ii) 0.779 percent in fiscal years 2005 through 2009;
16 “(iii) Of the amount made available by this paragraph:
17 (I) 18.85 percent shall be available for carrying out transit
18 cooperative research programs under section 5313;
19 (II) 9.14 percent shall be available to carry out programs
20 under the National Transit Institute under section 5315, including not more than
21 \$1,000,000 shall be available to carry out section 5315(a)(16);
22 “(III) the remainder shall be available for carrying out
23 national research programs under sections 5312, 5313, 5314, and 5322;
24 "(G) \$30,000,000 shall be available to carry out section 5316 for each
25 fiscal year 2005 through 2009, based on need and supported by
26 transportation financial feasibility studies and planning analyses;
27 "(H) the following amounts shall be available for the New Freedom
28 program under section 5317 of this title:
29 “(i) \$145,000,000 in fiscal year 2004;
30 “(ii) 2.582 percent in fiscal years 2005 through 2009;
31 "(I) the following amounts shall be available to carry out section 5318:

1 “(i) \$3,000,000 in fiscal year 2004;
2 “(ii) 0.061 percent in fiscal years 2005 through 2009
3 “(J) \$6,000,000 shall be available to carry out section 5505 of this title;
4 “(K) 6.4 percent shall be available to provide financial assistance for other
5 than urbanized areas under section 5311;
6 “(L) 1.55 percent shall be available to provide financial assistance for
7 services for elderly persons and persons with disabilities under section 5310
8 “(M) the following amounts shall be available to provide financial
9 assistance for job access and reverse commute projects under section 5308:
10 “(i) \$150,000,000 in fiscal year 2004; and
11 “(ii) 2.671 percent in fiscal years 2005 through 2009;
12 “(N) the following amounts shall be available to provide financial
13 assistance for urbanized areas under section 5307 and apportioned in accordance
14 with section 5337:
15 “(i) \$1,214,400,000 in fiscal year 2004; and
16 “(ii) 21.626 percent in fiscal years 2005 through 2009; and
17 “(O) \$75,000,000 shall be available to carry out sections 5570 through
18 5575 in fiscal years 2005 through 2009.
19 “(P) The remaining amount shall be available to provide financial
20 assistance for urbanized areas under section 5307 and apportioned in accordance
21 with section 5336.
22 “(b) MAJOR CAPITAL INVESTMENT PROGRAM GRANTS.—(1) There shall
23 be available from the Mass Transit Account of the Highway Trust Fund to carry out
24 sections 5305, and 5309—
25 “(A) \$320,594,000 for fiscal year 2004;
26 “(B) \$327,006,000 for fiscal year 2005;
27 “(C) \$333,808,000 for fiscal year 2006;
28 “(D) \$341,318,000 for fiscal year 2007;
29 “(E) \$349,749,000 for fiscal year 2008; and
30 “(F) \$358,248,000 for fiscal year 2009.

1 “(2) In addition to amounts made available under paragraph (1), there are authorized
2 to be appropriated to carry out sections 5305, and 5309—

3 “(A) \$1,213,500,000 for fiscal year 2004;

4 “(B) \$1,236,192,000 for fiscal year 2005;

5 “(C) \$1,261,287,000 for fiscal year 2006;

6 “(D) \$1,289,162,000 for fiscal year 2007;

7 “(E) \$1,321,907,000 for fiscal year 2008; and

8 “(F) \$1,355,219,000 for fiscal year 2009.

9 “(3) Of the amounts made available by and appropriated under this subsection for a
10 fiscal year,

11 “(A) 1.25 percent shall be available to carry out section 5305 in the fiscal
12 year 2004;

13 “(B) 2 percent shall be available to carry out section 5305 in fiscal years
14 2005 through 2009; and

15 “(C) the remaining amount shall be available to carry out Major Capital
16 Investment Grants under section 5309 of this title.

17 “(c) ADMINISTRATION—There are authorized to be appropriated to carry out
18 section 5334—

19 “(A) \$76,500,000 for fiscal year 2004;

20 “(B) \$77,931,000 for fiscal year 2005;

21 “(C) \$79,513,000 for fiscal year 2006;

22 “(D) \$81,270,000 for fiscal year 2007;

23 “(E) \$83,334,000 for fiscal year 2008; and

24 “(F) \$85,434,000 for fiscal year 2009.

25 ”(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—(1) A grant or contract
26 approved by the Secretary, that is financed with amounts made available under
27 subsections (a), (b)(1), or (e) is a contractual obligation of the United States Government
28 to pay the Government's share of the cost of the project.

29 “(2) A grant or contract, approved by the Secretary, that is financed with amounts

1 made available under subsections (b)(2) or (c) is a contractual obligation of the
2 Government to pay the Government's share of the cost of the project only to the extent
3 that amounts are provided in advance in an appropriations Act.

4 “(e) REVENUE ALIGNED BUDGET AUTHORITY--(1) On October 15 of
5 fiscal year 2006 and each fiscal year thereafter, the Secretary shall prorate an amount of
6 funds equal to the amount determined pursuant to section 251(b)(1)(C) of the Balanced
7 Budget and Emergency Deficit Control Act of 1985 in a portion equal to the amount
8 available to each Federal transit program for which funds are available from the Mass
9 Transit Account of the Highway Trust Fund under subsections (a) and (b) of this section..

10 “(2) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be
11 appropriated from the Mass Transit Account of the Highway Trust Fund such sums as
12 may be necessary to carry out this subsection for fiscal years beginning after September
13 30, 2005.

14 “(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or
15 appropriated under subsections (a), (b), and (e) shall remain available until expended.”.

16 **SEC. 3037. NATIONAL PARKS AND PUBLIC LANDS LEGACY PROJECT.**

17 (a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the
18 following:

19 **“§ 5316. National parks and public lands Legacy Project**

20 “(a) IN GENERAL.— (1) The Secretary of Transportation, in consultation
21 with the Secretary of the Interior, may make a grant or enter into a contract,
22 cooperative agreement, interagency agreement, intra-agency agreement, or other
23 transaction to carry out a qualified project under this section to enhance the protection
24 of America's National Parks and public lands and increase the enjoyment of those
25 visiting the parks and public lands by ensuring access to all, including the disabled,
26 improving conservation and park and public land opportunities in urban areas through

1 partnering with state and local governments, and improving park and public land
2 transportation infrastructure.

3 "(2) A grant, cooperative agreement, interagency agreement, intra-agency
4 agreement, or other transaction for a qualified project under this section shall be available
5 to finance the leasing of equipment and facilities for use in public transportation, subject
6 to any regulation that the Secretary may prescribe limiting the grant or agreement to
7 leasing arrangements that are more cost-effective than purchase or construction.

8 "(b) DEFINITIONS.—In this section—

9 "(1) 'eligible area' means any Federally owned or managed park, refuge, or
10 recreational area that is open to the general public, including--

11 "(A) a unit of the National Park System;

12 "(B) a unit of the National Wildlife Refuge System;

13 "(C) a recreational area managed by the Bureau of Land

14 Management; and

15 "(D) a recreation area managed by the Bureau of Reclamation.

16 "(2) 'Federal land management agency' means a Federal agency that
17 manages an eligible area.

18 "(3) 'public transportation' means transportation by bus, rail, or any other
19 publicly or privately owned conveyance that provides to the public general or
20 special service on a regular basis, including sightseeing service.

21 "(4) 'qualified participant' means—

22 "(A) a Federal land management agency; or

23 "(B) a State, tribal, or local governmental authority with
24 jurisdiction over land in the vicinity of an eligible area acting with the
25 consent of the Federal land management agency, alone or in partnership
26 with a Federal land management agency or other Governmental or
27 nongovernmental participant.

28 "(5) 'qualified project' means a planning or capital project in or in the
29 vicinity of an eligible area that—

30 "(A) is an activity described in section 5302, 5303, or 5304;

31 "(B) involves—

1 “(i) the purchase of rolling stock that incorporates clean
2 fuel technology or the replacement of buses of a type in use on the
3 date of enactment of this section with clean fuel vehicles; or

4 “(ii) the deployment of public transportation vehicles that
5 introduce innovative technologies or methods;

6 “(C) relates to the capital costs of coordinating the Federal land
7 management agency public transportation systems with other public
8 transportation systems;

9 “(D) provides a nonmotorized transportation system (including the
10 provision of facilities for pedestrians, bicycles, and nonmotorized
11 watercraft);

12 “(E) provides waterborne access within or in the vicinity of an
13 eligible area, as appropriate to and consistent with this section; or

14 “(F) is any other public transportation project that—

15 “(i) enhances the environment;

16 “(ii) prevents or mitigates an adverse impact on a natural
17 resource;

18 “(iii) improves Federal land management agency resource
19 management;

20 “(iv) improves visitor mobility and accessibility and the
21 visitor experience;

22 “(v) reduces congestion and pollution (including noise
23 pollution and visual pollution); or

24 “(vi) conserves a natural, historical, or cultural resource
25 (excluding rehabilitation or restoration of a non-transportation
26 facility).

27 “(6) 'Secretary' means the Secretary of Transportation.

28 “(c) LIMITATION ON USE OF AVAILABLE AMOUNTS.— (1) The
29 Secretary, in consultation with the Secretary of the Interior, may use not more than 10
30 percent of the amount made available for a fiscal year under section 5338(a)(2)(G) to

1 carry out planning, research, and technical assistance under this section, including the
2 development of technology appropriate for use in a qualified project.

3 "(2) Amounts made available under this subsection are in addition to amounts
4 otherwise available to the Secretary to carry out planning, research, and technical
5 assistance under this title or any other provision of law.

6 "(3) No qualified project shall receive more than 12 percent of the total amount
7 made available to carry out this section under section 5338(a)(2)(G) for any fiscal
8 year.

9 "(d) PLANNING PROCESS.—In undertaking a qualified project under this
10 section,

11 "(1) if the qualified participant is a Federal land management agency—

12 "(A) the Secretary, in cooperation with the Secretary of the
13 Interior, shall develop transportation planning procedures that are
14 consistent with—

15 "(i) the metropolitan planning provisions under section 5303 of this
16 title;

17 "(ii) the statewide planning provisions under section 5304 of this
18 title; and

19 "(iii) the public participation requirements under section 5307(e);
20 and

21 "(B) in the case of a qualified project that is at a unit of the
22 National Park system, the planning process shall be consistent with the
23 general management plans of the unit of the National Park system; and

24 "(2) if the qualified participant is a State or local governmental authority,
25 or more than one State or local governmental authority in more than one State, the
26 qualified participant shall—

27 "(A) comply with the metropolitan planning provisions under
28 section 5303 of this title;

29 "(B) comply with the statewide planning provisions under section
30 5304 of this title;

1 "(C) comply with the public participation requirements under
2 section 5307(e) of this title; and

3 "(D) consult with the appropriate Federal land management agency
4 during the planning process.

5 "(e) COST SHARING.—(1) The Secretary, in cooperation with the Secretary
6 of the Interior, shall establish the share of assistance to be provided under this section
7 to a qualified participant.

8 "(2) In establishing the share of assistance to be provided under this section,
9 the Secretary shall consider—

10 “(A) visitation levels and the revenue derived from user fees in the
11 eligible area in which the qualified project is carried out;

12 “(B) the extent to which the qualified participant coordinates with a
13 public transportation authority or private entity engaged in public
14 transportation;

15 “(C) private investment in the qualified project, including the provision
16 of contract services, joint development activities, and the use of innovative
17 financing mechanisms;

18 “(D) the clear and direct benefit to the qualified participant; and

19 “(E) any other matters that the Secretary considers appropriate to carry
20 out this section.

21 “(3) Notwithstanding any other provision of law, Federal funds appropriated to
22 any Federal land management agency may be counted toward the remainder of the
23 cost of a qualified project.

24 “(f) SELECTION OF QUALIFIED PROJECTS—(1) The Secretary of the
25 Interior, after consultation with and in cooperation with the Secretary, shall determine
26 the final selection and funding of an annual program of qualified projects in
27 accordance with this section.

28 “(2) In determining whether to include a project in the annual program of
29 qualified projects, the Secretary of the Interior shall consider—

1 "(A) the justification for the qualified project, including the extent to
2 which the qualified project would conserve resources, prevent or mitigate
3 adverse impact, and enhance the environment;

4 "(B) the location of the qualified project, to ensure that the selected
5 qualified projects—

6 "(i) are geographically diverse nationwide; and

7 "(ii) include qualified projects in eligible areas located in both
8 urban areas and rural areas;

9 "(C) the size of the qualified project, to ensure that there is a balanced
10 distribut ion;

11 "(D) the historical and cultural significance of a qualified project;

12 "(E) safety;

13 "(F) the extent to which the qualified project would—

14 "(i) enhance livable communities;

15 "(ii) reduce pollution (including noise pollution, air pollution,
16 and visual pollution);

17 "(iii) reduce congestion; and

18 "(iv) improve the mobility of people in the most efficient
19 manner; and

20 "(G) any other matters that the Secretary considers appropriate to carry
21 out this section, including—

22 "(i) visitation levels;

23 "(ii) the use of innovative financing or joint development
24 strategies; and

25 "(iii) coordination with gateway communities.

26 "(g) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—(1) When a
27 qualified participant carries out any part of a qualified project without assistance under
28 this section in accordance with all applicable procedures and requirements, the
29 Secretary, in consultation with the Secretary of the Interior, may pay the share of the
30 net capital project cost of a qualified project if—

31 "(A) the qualified participant applies for the payment;

1 "(B) the Secretary approves the payment; and

2 "(C) before carrying out that part of the qualified project, the Secretary
3 approves the plans and specifications in the same manner as plans and
4 specifications are approved for other projects assisted under this section.

5 "(2)(A) The cost of carrying out part of a qualified project under paragraph (1)
6 includes the amount of interest earned and payable on bonds issued by a State or local
7 governmental authority, to the extent that proceeds of the bond are expended in
8 carrying out that part.

9 "(B) The rate of interest under this paragraph may not exceed the most
10 favorable rate reasonably available for the qualified project at the time of borrowing.

11 "(C) The qualified participant shall certify, in a manner satisfactory to the
12 Secretary, that the qualified participant has exercised reasonable diligence in seeking
13 the most favorable interest rate.

14 “(h) RELATIONSHIP TO OTHER LAWS.—(1) A qualified participant under
15 this section is subject to the requirements of section 5307 of this title to the extent the
16 Secretary considers appropriate.

17 “(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor
18 shall utilize a Special Warranty that provides a fair and equitable arrangement to protect
19 the interest of employees.

20 “(3) The Secretary may waive the applicability of the Special Warranty under
21 paragraph (B) for private non-profit subrecipients on a case-by-case basis as the Secretary
22 deems appropriate

23 “(4) A qualified participant under this section is subject to any other terms,
24 conditions, requirements, and provisions that the Secretary determines to be appropriate
25 to carry out this section, including requirements for the distribution of proceeds on
26 disposition of real property and equipment resulting from a qualified project assisted
27 under this section.

28 “(5) If the amount of assistance anticipated to be required for a qualified
29 project under this section is \$75,000,000 or more, the qualified participant shall
30 prepare a project management plan in accordance with sections 5327(a) and (b) of this
31 title.”

1 "(i) ASSET MANAGEMENT.—The Secretary, in consultation with the
2 Secretary of the Interior, may transfer the interest of the Department of Transportation
3 in, and control over, all facilities and equipment acquired under this section to a
4 qualified participant for use and disposition in accordance with any property
5 management regulations that the Secretary determines to be appropriate.

6 "(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW
7 TECHNOLOGIES.--(1) The Secretary, in cooperation with the Secretary of the
8 Interior, may undertake, or make grants, cooperative agreements, contracts (including
9 agreements with departments, agencies, and instrumentalities of the Federal
10 Government) or other transactions for research, development, and deployment of new
11 technologies in eligible areas that will—

12 "(A) conserve resources;

13 "(B) prevent or mitigate adverse environmental impact;

14 "(C) improve visitor mobility, accessibility, and enjoyment; and

15 "(D) reduce pollution (including noise pollution and visual pollution).

16 "(2) The Secretary may request and receive appropriate information from any
17 source.

18 "(3) Grants, cooperative agreements, contracts or other transactions under
19 paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).".

20 (b) CONFORMING AMENDMENTS.—The table of sections for chapter 53
21 is amended by inserting after the item relating to section 5315 the following:
22 "5316. National parks and public lands Legacy Project."

23 **SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

24 (a) Section 3038 of the Transportation Equity Act for the 21st Century, Pub. L.
25 105-178, is amended—

26 (1) by striking the section heading and inserting the following:

27 "OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM."; and

28 (2) by revising subsection (g) to read as follows:

29 "(g) FUNDING—(1) Of the amounts made available by or appropriated
30 under section 5338(a)(2)(E) in each fiscal year, 75 percent shall be available for
31 operators of over-the-road buses used substantially or exclusively in intercity,

1 fixed-route over-the-road bus service to finance the incremental capital and
2 training costs of the Department of Transportation's final rule regarding
3 accessibility of over-the-road buses. Such amounts shall remain available until
4 expended.

5 "(2) Of the amounts made available by or appropriated under
6 section 5338(a)(2)(E) in each fiscal year, 25 percent shall be available for
7 operators of other over-the-road bus service to finance the incremental
8 capital and training costs of the Department of Transportation's final rule
9 regarding accessibility of over-the-road buses. Such amounts shall remain
10 available until expended."

11 (b) CONFORMING AMENDMENTS--The item relating to section 3038 in the
12 table of sections for the Transportation Equity Act for the 21st Century is amended to read
13 as follows:

14 "Over-the-road bus accessibility program."

15 **SEC. 3039. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY**
16 **INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES**

17 IN GENERAL --Section 5310 is amended to read as follows:

18 "(a) GENERAL AUTHORITY.--(1) The Secretary may make grants to a State
19 under this section for capital public transportation projects planned, designed, and carried
20 out to meet the special needs of elderly individuals and individuals with disabilities. A
21 State may then allocate the funds to--.

22 "(A) a private non-profit organization; or

23 "(B) a governmental authority--

24 "(i) approved by the State to coordinate services for elderly
25 individuals and individuals with disabilities; or

26 "(ii) that certifies that there are not any nonprofit
27 organizations readily available in the area to provide the services
28 described under this paragraph.

29 "(2) A capital public transportation project under this section may include
30 acquiring public transportation services as an eligible capital expense.

1 "(3) A State may use not more than 15 percent of the amounts
2 apportioned under this section to administer, plan and provided technical
3 assistance for a project funded under this section.

4 "(b) APPORTIONMENTS.--(1) The Secretary shall apportion amounts made
5 available under section 5338(a)(2)(M) of this title under a formula the Secretary
6 administers that considers the number of elderly individuals and individuals with
7 disabilities in each State.

8 "(2) The recipient may transfer any funds apportioned to it under this
9 subsection to sections 5311(c) or 5336. Any funds transferred pursuant to this
10 subsection shall be made available only for eligible projects selected under this
11 section.

12 "(c) GOVERNMENT'S SHARE.--A grant for a capital project under this section
13 may not exceed 80 percent of the net capital costs of the project, as determined by the
14 Secretary. The remainder—

15 “(1) may be provided from an undistributed cash surplus, a replacement or
16 depreciation cash fund or reserve, a service agreement with a State or local social
17 service agency or a private social service organization, or new capital; and

18 “(2) may be derived from amounts appropriated to or made available to a
19 department or agency of the Federal government (other than the Department of
20 Transportation, except for Federal Land Highway funds) that are eligible to be
21 expended for transportation.

22 “(3) For purposes of paragraph (2), the prohibitions on the use of funds for
23 matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act
24 shall not apply to federal or state funds to be used for transportation purposes.”.

25 "(d) GRANT REQUIREMENTS.--(1) A recipient of a grant under this
26 section is subject to all requirements of a grant under section 5307 of this title to
27 the extent the Secretary considers appropriate."

28 (2) A recipient that transfers funds to section 5336 pursuant to subsection
29 (b)(2) shall certify that the project for which the funds are requested has been
30 coordinated with private non-profit providers of services under this section.

31 "(3) A recipient of funds under this section shall certify that--

1 "(A) the projects selected were derived from a locally developed,
2 coordinated public transit-human services transportation plan; and

3 "(B) the plan was developed through a process that included
4 representatives of public, private, and nonprofit transportation and human
5 services providers and participation by the public;

6 "(4) A recipient of a grant under this section shall certify that allocations
7 of the grant to subrecipients are distributed on a fair and equitable basis.

8 "(e) STATE PROGRAM OF PROJECTS.--Amounts made available to carry out
9 this subsection may be used for transportation projects to assist in providing
10 transportation services for elderly individuals and individuals with disabilities that are
11 included in a State program of projects. A program shall be submitted annually to the
12 Secretary for approval and shall contain an assurance that the program provides for
13 maximum feasible coordination of transportation services assisted under this section with
14 transportation services assisted by other United States Government sources.

15 "(f) LEASING VEHICLES.--Vehicles acquired under this section may be leased
16 to local governmental authorities to improve transportation services designed to meet the
17 special needs of elderly individuals and individuals with disabilities.

18 "(g) HOMEBOUND INDIVIDUALS.--Public transportation service providers
19 receiving assistance under this section or 5311(c) of this title may coordinate and assist in
20 regularly providing meal delivery service for homebound individuals if the delivery
21 service does not conflict with providing public transportation service or reduce service to
22 public transportation passengers.

23 "(h) TRANSFERS OF FACILITIES AND EQUIPMENT.--With the consent of
24 the recipient currently having a facility or equipment acquired with assistance under this
25 section, a State may transfer the facility or equipment to any recipient eligible to receive
26 assistance under this chapter if the facility or equipment will continue to be used as
27 required under this section

28 "(i) FARES NOT REQUIRED.--This chapter does not require that elderly
29 individuals and individuals with disabilities be charged a fare.”.

30 **SEC. 3040. JOB ACCESS AND REVERSE COMMUTE.**

31 (a) Section 5308 is amended to read as follows:

1 **"§ 5308. Formula grants for job access and reverse commute projects.**

2 "(a) DEFINITIONS.--In this section,

3 "(1) 'recipient' means a State that receives a grant under this section
4 directly.

5 "(2) 'subrecipient' means a State or local public authority, a nonprofit
6 organization, or a private operator of public transportation service that may
7 receive a grant under this section indirectly through a recipient, rather than
8 directly from the Federal government.”.

9 "(b) GENERAL AUTHORITY.--(1) The Secretary may make grants to a
10 recipient under this section for access to jobs and reverse commute projects to a recipient.

11 "(2) A recipient may use not more than 15 percent of the amounts apportioned
12 under this section to administer, plan, and provide technical assistance for a project
13 funded under this section.

14 "(c) APPORTIONMENTS.--(1) The Secretary shall apportion amounts made
15 available under section 5338(a)(2)(M) of this title under a formula the Secretary
16 administers that considers the number of low income people in each State.

17 "(2) The recipient may transfer any funds apportioned to it under this subsection
18 to sections 5311(c) or 5336. Any apportionment transferred pursuant to this subsection
19 shall be made available for eligible job access and reverse commute projects under this
20 section.

21 "(d) GRANT REQUIREMENTS--(1) A grant under this section is subject to the
22 requirements of 5307 to the extent the Secretary considers appropriate.

23 "(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor
24 shall utilize a Special Warranty that provides a fair and equitable arrangement to protect
25 the interest of employees.

26 "(3) The Secretary may waive the applicability of the Special Warranty under
27 paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary
28 deems appropriate.

29 "(4) A recipient of a grant under this section shall certify that allocations of the
30 grant to subrecipients are distributed on a fair and equitable basis.

1 "(e) COMPETITIVE PROCESS--(1) The recipient shall conduct a statewide
2 solicitation for applications for grants under this section.

3 "(2) Subrecipients seeking to receive a grant under this section shall submit to the
4 recipient an application in the form and in accordance with such requirements as the
5 recipient shall establish.

6 "(3) Subrecipients submitting applications pursuant to paragraph (2) shall be
7 selected on a competitive basis.

8 "(f) COORDINATION--“(1) The Secretary shall coordinate activities under this
9 section with related activities under programs of other Federal departments and agencies.

10 "(2) A recipient that transfers funds to section 5336 pursuant to subsection (c)(2)
11 shall certify that the project for which the funds are requested has been coordinated with
12 private non-profit providers of services under this section.

13 "(3) A recipient of funds under this section shall certify that--

14 "(A) the projects selected were derived from a locally developed,
15 coordinated public transit-human services transportation plan; and

16 "(B) the plan was developed through a process that included
17 representatives of public, private, and nonprofit transportation and human services
18 providers and participation by the public;

19 “(g) GOVERNMENT’S SHARE OF COSTS.—(1) A grant for a capital project
20 under this section may not exceed 80 percent of the net capital costs of the project, as
21 determined by the Secretary. A grant made under this section for operating assistance
22 may not exceed 50 percent of the net operating costs of the project, as determined by the
23 Secretary. The remainder—

24 “(A) may be provided from an undistributed cash surplus, a replacement
25 or depreciation cash fund or reserve, a service agreement with a State or local
26 social service agency or a private social service organization, or new capital; and

27 “(B) may be derived from amounts appropriated to or made available to a
28 department or agency of the Federal government (other than the Department of
29 Transportation, except for Federal Land Highway funds) that are eligible to be
30 expended for transportation.

1 “(2) A recipient carrying out a program of operating assistance under this section
2 may not limit the level or extent of use of the Government grant for the payment of
3 operating expenses.

4 “(3) For purposes of paragraph (1)(B) of this section, the prohibitions on the use
5 of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security
6 Act shall not apply to federal or state funds to be used for transportation purposes.”

7 (b) CONFORMING AMENDMENT.—The table of sections for Chapter 53 is
8 amended after the item relating to section 5307 to read as follows:

9 “5308. Formula grants for job access and reverse commute projects.

11 **TITLE IV—MOTOR CARRIER SAFETY**

13 **SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) ADMINISTRATIVE EXPENSES. – Section 31104 of title 49,
15 United States Code, is amended by adding the following at the end:

16 “(i) ADMINISTRATIVE EXPENSES. – (1) There are authorized to be
17 appropriated from the Highway Trust Fund (other than the Mass Transit
18 Account) for the Secretary of Transportation to pay administrative expenses of
19 the Federal Motor Carrier Safety Administration –

20 “(A) \$224,406,000 for fiscal year 2004;

21 “(B) \$228,000,000 for fiscal year 2005;

22 “(C) \$233,000,000 for fiscal year 2006;

23 “(D) \$239,000,000 for fiscal year 2007;

24 “(E) \$244,000,000 for fiscal year 2008; and

25 “(F) \$250,000,000 for fiscal year 2009.

26 “(2) The funds authorized by this subsection shall be used for
27 personnel costs; administrative infrastructure; rent; information technology;
28 programs for research and technology, information management, regulatory
29 development (including a medical review board and rules for medical
30 examiners), performance and registration information system management
31 (PRISM), a study of driver availability and retention, and outreach and

1 education; other operating expenses and similar matters; and such other
2 expenses as may from time to time become necessary to implement statutory
3 mandates not funded from other sources.

4 “(3) The amounts made available under this section shall remain
5 available until expended.

6 “(4) Authorizations from the Highway Trust Fund (other than the Mass
7 Transit Account) to carry out subtitle IV, Part B, and subtitle VI, Part B, of this
8 title, or the provisions of subtitle IV of the "Safe, Accountable, Flexible, and
9 Efficient Transportation Equity Act of 2003", shall be available for obligation
10 on the date of their apportionment or allocation or on October 1 of the fiscal
11 year for which they are authorized, whichever occurs first.”.

12 (b) AMENDMENT TO TITLE 23--Section 104(a)(1) of title 23, United
13 States Code, is amended by--

14 (1) deleting subparagraph (B);

15 (2) deleting the designation “(A)” at the beginning of
16 subparagraph (A) and redesignating subparagraphs (A)(i) and (ii) as
17 subparagraphs (A) and (B), respectively; and

18 (3) deleting “; and” at the end of subparagraph (B), as so
19 redesignated, and inserting a period.

20 (c) GRANT PROGRAMS.--There are authorized to be appropriated
21 from the Highway Trust Fund (other than the Mass Transit Account) for the
22 following Federal Motor Carrier Safety Administration programs--

23 (1) Commercial driver’s license/driver improvement program
24 grants under section 4002(c) –

25 (A) \$22,000,000 for fiscal year 2004;

26 (B) \$22,000,000 for fiscal year 2005;

27 (C) \$23,000,000 for fiscal year 2006;

28 (D) \$23,000,000 for fiscal year 2007;

29 (E) \$24,000,000 for fiscal year 2008; and

30 (F) \$25,000,000 for fiscal year 2009.

31 (2) Border enforcement grants under section 4002(b)–

- 1 (A) \$ 32,000,000 for fiscal year 2004;
- 2 (B) \$ 33,000,000 for fiscal year 2005;
- 3 (C) \$ 33,000,000 for fiscal year 2006;
- 4 (D) \$ 34,000,000 for fiscal year 2007;
- 5 (E) \$ 35,000,000 for fiscal year 2008; and
- 6 (F) \$ 36,000,000 for fiscal year 2009.

7 (3) Performance and registration information system
8 management (PRISM) grant program under section 4016 –

- 9 (A) \$4,000,000 for fiscal year 2004;
- 10 (B) \$4,000,000 for fiscal year 2005;
- 11 (C) \$4,000,000 for fiscal year 2006;
- 12 (D) \$4,000,000 for fiscal year 2007;
- 13 (E) \$4,000,000 for fiscal year 2008; and
- 14 (F) \$4,000,000 for fiscal year 2009.

15 (d) PERIOD OF AVAILABILITY. – The amounts made available
16 under subsection (c) of this section shall remain available until expended.

17 (e) CONTRACT AUTHORITY. – Authorizations from the Highway
18 Trust Fund (other than the Mass Transit Account) to carry out subsection (c) of
19 this section shall be available for obligation on the date of their apportionment
20 or allocation or on October 1 of the fiscal year for which they are authorized,
21 whichever occurs first. Approval by the Secretary of a grant with funds made
22 available under subsection (c) of this section imposes upon the United States
23 Government a contractual obligation for payment of the Government’s share of
24 costs incurred in carrying out the objectives of the grant.

25 **SEC. 4002. MOTOR CARRIER SAFETY GRANTS.**

26 (a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM--

27 (1) Section 31102 of title 49, United States Code, is amended –

28 (A) in subsection (b)(1), by amending paragraph (A) to
29 read as follows:

30 “(A) implements performance-based activities.”;

1 (B) in subsection (b)(1), by deleting “and” at the end of
2 paragraph (S), replacing the period at the end of paragraph (T)
3 with a semicolon, and adding new paragraphs (U) and (V), to
4 read as follows:

5 “(U) provides that the State will include in the
6 training manual for the licensing examination to drive a
7 non-commercial motor vehicle and a commercial motor
8 vehicle, information on best practices for driving safely
9 in the vicinity of commercial motor vehicles and in the
10 vicinity of non-commercial vehicles, respectively; and

11 “(V) provides that the State will enforce the
12 registration requirements of 49 U.S.C. 13902 by placing
13 out of service any vehicle discovered to be operating
14 without registration or beyond the scope of its
15 registration.”; and

16 (C) by revising subsection (c) to read as follows:

17 “(c) Use of grants to enforce other laws. – A State may use amounts
18 received under a grant under subsection (a) of this section for the following
19 activities:

20 “(1) If the activities are carried out in conjunction with an
21 appropriate inspection of the commercial motor vehicle to enforce
22 Government or State commercial motor vehicle safety regulations:

23 “(A) Enforcement of commercial motor vehicle size and
24 weight limitations at locations other than fixed weight facilities,
25 at specific locations such as steep grades or mountainous
26 terrains where the weight of a commercial motor vehicle can
27 significantly affect the safe operation of the vehicle, or at ports
28 where intermodal shipping containers enter and leave the United
29 States.

30 “(B) Detection of the unlawful presence of a controlled
31 substance (as defined under section 102 of the Comprehensive

1 Drug Abuse Prevention and Control Act of 1970 (21 U.S.C.
2 802)) in a commercial motor vehicle or on the person of any
3 occupant (including the operator) of the vehicle.

4 “(2) Documented enforcement of State traffic laws and
5 regulations designed to promote the safe operation of commercial motor
6 vehicles, including documented enforcement of such laws and
7 regulations against non-commercial motor vehicles when necessary to
8 promote the safe operation of commercial motor vehicles.”.

9 (2) Section 31103(b) of title 49, United States Code, is amended
10 to read as follows:

11 “(b) OTHER ACTIVITIES.—(1) From the amounts designated under
12 section 31104(f)(2), the Secretary may make a grant to a State agency, local
13 government, or other person for the full cost of research, development,
14 demonstration projects, public education, and other special activities and
15 projects relating to commercial motor vehicle safety that are of benefit to all
16 jurisdictions or designed to address national safety concerns and circumstances.

17 “(2) From the amounts designated under section 31104(f)(3), the
18 Secretary may allocate safety performance incentive funds to States without
19 requiring a matching contribution from such States.

20 “(3) From the amounts designated under section 31104(f)(4), the
21 Secretary may allocate new entrant motor carrier audit funds to States and local
22 governments without requiring a matching contribution from such States or
23 local governments. However, the Secretary may withhold such funds from a
24 State or local government that is unable to use government employees to
25 conduct new entrant motor carrier audits, and may instead utilize the funds
26 directly to conduct audits in those jurisdictions.”.

27 (3) Section 31104(a) of title 49, United States Code, is amended
28 to read as follows:

29 “(a) In general. – There are authorized to be appropriated from the
30 Highway Trust Fund (other than the Mass Transit Account) to carry out section
31 31102:

- 1 “(1) Not more than \$164,594,000 for fiscal year 2004.
2 “(2) Not more than \$168,000,000 for fiscal year 2005.
3 “(3) Not more than \$172,000,000 for fiscal year 2006.
4 “(4) Not more than \$176,000,000 for fiscal year 2007.
5 “(5) Not more than \$180,000,000 for fiscal year 2008.
6 “(6) Not more than \$184,000,000 for fiscal year 2009.”.

7 (4) Section 31104(f) is amended by revising paragraph (2) and
8 adding new paragraphs (3) and (4), to read as follows:

9 “(2) HIGH-PRIORITY ACTIVITIES. – The Secretary may
10 designate up to 10 percent of amounts available for allocation under
11 paragraph (1) for States, local governments, and other persons for
12 carrying out high priority activities and projects that improve
13 commercial motor vehicle safety and compliance with commercial
14 motor vehicle safety regulations, including activities and projects that
15 are national in scope, increase public awareness and education, or
16 demonstrate new technologies. The amounts designated under this
17 paragraph shall be allocated by the Secretary to State agencies, local
18 governments, and other persons that use and train qualified officers and
19 employees in coordination with State motor vehicle safety agencies.
20 Allocations under this paragraph do not require a matching contribution
21 from a State, local government, or other person.

22 “(3) SAFETY PERFORMANCE INCENTIVE PROGRAMS. –
23 The Secretary may designate up to 10 percent of the amounts available
24 for allocation under paragraph (1) for safety performance incentive
25 programs for States. The Secretary shall establish safety performance
26 criteria to be used to distribute incentive program funds. Such criteria
27 shall include, at a minimum, reduction in the number and rate of fatal
28 accidents involving commercial motor vehicles. Allocations under this
29 paragraph do not require a matching contribution from a State.

30 “(4) NEW ENTRANT AUDITS. – The Secretary may designate
31 up to \$17,000,000 of the amounts available for allocation under

1 paragraph (1) for audits of new entrant motor carriers conducted
2 pursuant to section 210 of the Motor Carrier Safety Improvement Act of
3 1999, 113 Stat. 1764. Allocations under this paragraph do not require a
4 matching contribution from a State or local government.”.

5 (b) GRANTS TO STATES FOR BORDER ENFORCEMENT.--

6 Chapter 311 of title 49, United States Code, is amended by revising section
7 31107 to read as follows:

8 **“§ 31107. Border enforcement grants**

9 “(a) GENERAL AUTHORITY. – From the funds authorized by
10 sections 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient
11 Transportation Equity Act of 2003, the Secretary may make a grant in a fiscal
12 year to a State, except as otherwise provided in subsection (c), that shares a
13 border with another country for carrying out border commercial motor vehicle
14 safety programs and related enforcement activities and projects.

15 “(b) MAINTENANCE OF EXPENDITURES. – Except as otherwise
16 provided in subsection (c), the Secretary may make a grant to a State under this
17 section only if the State agrees that the total expenditure of amounts of the State
18 and political subdivisions of the State, exclusive of United States Government
19 amounts, for carrying out border commercial motor vehicle safety programs
20 and related enforcement activities and projects will be maintained at a level at
21 least equal to the average level of that expenditure by the State and political
22 subdivisions of the State for the last two State or Federal fiscal years before
23 October 1, 2003.

24 “(c) GOVERNMENT SHARE.–The Secretary may make a grant to a
25 State agency, local government, or other person for the full cost of research,
26 development, demonstration projects, public education, and other special
27 activities and projects relating to cross-border operations of commercial motor
28 vehicles that are beneficial to all jurisdictions or designed to address national
29 safety concerns and circumstances.

30 “(d) AVAILABILITY OF AMOUNTS. – Amounts made available to a
31 State under section 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient

1 Transportation Equity Act of 2003 to carry out this section shall remain
2 available until expended.

3 “(e) GRANTS AS CONTRACTUAL OBLIGATIONS. – Approval by
4 the Secretary of a grant with funds made available under section 4001(c)(2) of
5 the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of
6 2003 imposes upon the United States Government contractual obligation for
7 payment of the amount of the grant.”.

8 (c) GRANTS TO STATES FOR COMMERCIAL DRIVER’S
9 LICENSE IMPROVEMENTS. – Chapter 313 of title 49, United States Code, is
10 amended by adding new section 31318 at the end, to read as follows:

11 “§ 31318. Grants for commercial driver’s license program improvements

12 “(a) GENERAL AUTHORITY. – From the funds authorized by section
13 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation
14 Equity Act of 2003, the Secretary may make a grant to a State, except as
15 otherwise provided in subsection (e), in a fiscal year to improve its
16 implementation of the commercial driver’s license program, providing the State
17 is in substantial compliance with the requirements of section 31311 and this
18 section. The Secretary shall establish criteria for the distribution of grants and
19 notify the States annually of such criteria.

20 “(b) CONDITIONS. – Except as otherwise provided in subsection (e), a
21 State may use a grant under this section only for expenses directly related to its
22 commercial driver’s license program, including, but not limited to, computer
23 hardware and software, publications, testing, personnel, training, and quality
24 control. The grant may not be used to rent, lease, or buy land or buildings. The
25 Secretary may allocate the funds appropriated for such grants in a fiscal year
26 among the eligible States whose applications for grants have been approved,
27 under criteria that best serve the purposes of this section.

28 “(c) MAINTENANCE OF EXPENDITURES. – Except as otherwise
29 provided in subsection (e), the Secretary may make a grant to a State under this
30 section only if the State agrees that the total expenditure of amounts of the State
31 and political subdivisions of the State, exclusive of United States Government

1 amounts, for the operation of the commercial driver’s license program will be
2 maintained at a level at least equal to the average level of that expenditure by
3 the State and political subdivisions of the State for the last 2 fiscal years before
4 October 1, 2003

5 “(d) GOVERNMENT SHARE. – Except as otherwise provided in
6 subsection (e), the Secretary shall reimburse a State, from a grant made under
7 this section, an amount that is not more than 80 percent of the costs incurred by
8 the State in a fiscal year in implementing the commercial driver’s license
9 improvements described in subsection (b). In determining those costs, the
10 Secretary shall include in-kind contributions by the State. Amounts of the State
11 required to be expended under subsection (c) may not be included as part of the
12 share not provided by the United States Government.

13 “(e) HIGH-PRIORITY ACTIVITIES.--(1) The Secretary may make a
14 grant to a State agency, local government, or other person for the full cost of
15 research, development, demonstration projects, public education, or other special
16 activities and projects relating to commercial driver licensing and motor vehicle
17 safety that are of benefit to all jurisdictions or designed to address national safety
18 concerns and circumstances.

19 “(2) The Secretary may designate up to 10 percent of the amounts made
20 available under section 4001(c)(1) of the Safe, Accountable, Flexible, and
21 Efficient Transportation Equity Act of 2003 in a fiscal year for high-priority
22 activities under sub section (e)(1).

23 “(f) EMERGING ISSUES.--The Secretary may designate up to 25
24 percent of the amounts made available under section 4001(c)(1) of the Safe,
25 Accountable, Flexible, and Efficient Transportation Equity Act of 2003 in a
26 fiscal year for allocation to a State agency, local government, or other person at
27 the discretion of the Secretary to address emerging issues relating to
28 commercial driver’s license improvements.

29 “(g) GOVERNMENT SHARE.--Except as otherwise provided in
30 subsections (e) and (f), all amounts available in a fiscal year to carry out this

1 section shall be apportioned to States according to a formula prescribed by the
2 Secretary.

3 “(h) DEDUCTION FOR ADMINISTRATIVE EXPENSES. – On
4 October 1 of each fiscal year or as soon after that date as practicable, the
5 Secretary may deduct, from amounts made available under section 4001(c)(1)
6 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of
7 2003 for that fiscal year, up to 1.25 percent of those amounts for administrative
8 expenses incurred in carrying out this section in that fiscal year.

9 “(i) AVAILABILITY OF AMOUNTS. – Amounts made available to a
10 State under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient
11 Transportation Equity Act of 2003 to carry out this section shall remain
12 available until expended.

13 “(j) GRANTS AS CONTRACTUAL OBLIGATIONS. – Approval by
14 the Secretary of a grant with funds made available under section 4001(c)(1) of
15 the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of
16 2003 imposes upon the United States Government a contractual obligation for
17 payment of the amount of the grant.”.

18 (d) NONCOMPLIANCE WITH CDL REQUIREMENTS.–Subsections
19 (a) and (b) of section 31314 of title 49, United States Code, are amended to
20 read as follows:

21 “(a) FIRST FISCAL YEAR. – The Secretary of Transportation shall
22 withhold up to 5 percent of the amount required to be apportioned to a State
23 under section 104(b)(1), (3), and (4) of title 23 on the first day of the fiscal year
24 after the first fiscal year beginning after September 30, 1992, throughout which
25 the State does not comply substantially with a requirement of section 31311(a)
26 of this title.

27 “(b) SECOND FISCAL YEAR. – The Secretary shall withhold up to 10
28 percent of the amount required to be apportioned to a State under section
29 104(b)(1), (3), and (4) of title 23 on the first day of each fiscal year after the 2d
30 fiscal year beginning after September 30, 1992, throughout which the State

1 does not comply substantially with a requirement of section 31311(a) of this
2 title.”.

3 (e) CONFORMING AMENDMENTS.--(1) The table of sections at the
4 beginning of chapter 311 of title 49, United States Code, is amended by--

5 (A) revising the heading of Subchapter I to read as follows:

6 "SUBCHAPTER I -- GENERAL AUTHORITY AND STATE
7 GRANTS"; and

8 (B) revising the item relating to section 31107 to read as
9 follows:

10 “31107. Border enforcement grants.”.

11 (2) Chapter 311 of title 49, United States Code, is amended following
12 the table of sections by striking--

13 "SUBCHAPTER I-- STATE GRANTS"

14 and substituting--

15 "SUBCHAPTER I -- GENERAL AUTHORITY AND STATE GRANTS";-.

16 (3) The table of sections at the beginning of chapter 313 of title 49,
17 United States Code, is amended after the item relating to section 31317 by
18 adding the following:

19 “31318. Grants for commercial driver’s license program improvements.”.

20 **SEC. 4003. HOBBS ACT.**

21 (a) Section 2342(3)(A) of title 28, United States Code, is amended to
22 read as follows:

23 “(A) the Secretary of Transportation issued pursuant to section 2, 9, 37,
24 or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and
25 841a) or pursuant to Part B or C of subtitle IV of title 49 [49 U.S.C. chapters
26 131-161] or pursuant to subchapter III of chapter 311, chapter 313, and chapter
27 315 of Part B of subtitle VI of title 49; and”.

28 (b) Section 351(a) of title 49, United States Code, is amended to read as
29 follows:

30 “(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation
31 in carrying out a duty or power transferred under the Department of

1 Transportation Act (Public Law 89-670, 80 Stat. 931), or an action of the
2 Administrator of the Federal Railroad Administration, Federal Motor Carrier
3 Safety Administration, or the Federal Aviation Administration in carrying out a
4 duty or power specifically assigned to the Administrator by that Act, may be
5 reviewed judicially to the same extent and in the same way as if the action had
6 been an action by the department, agency, or instrumentality of the United
7 States Government carrying out the duty or power immediately before the
8 transfer or assignment.”.

9 (c) Section 352 of title 49, United States Code, is amended to read as
10 follows:

11 **“§ 352. Authority to carry out certain transferred duties and powers**

12 “In carrying out a duty or power transferred under the Department of
13 Transportation Act (Public Law 89-670, 80 Stat. 931), the Secretary of
14 Transportation and the Administrators of the Federal Railroad Administration,
15 the Federal Motor Carrier Safety Administration, and the Federal Aviation
16 Administration have the same authority that was vested in the department,
17 agency, or instrumentality of the United States Government carrying out the
18 duty or power immediately before the transfer. An action of the Secretary or
19 Administrator in carrying out the duty or power has the same effect as when
20 carried out by the department, agency, or instrumentality.”.

21 **SEC. 4004. PENALTY FOR DENIAL OF ACCESS TO RECORDS.**

22 Section 521(b)(2) of title 49, United States Code, is amended by adding
23 new subparagraph (E) at the end, to read as follows:

24 “(E) COPYING OF RECORDS AND ACCESS TO
25 EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to
26 chapter 51 of subtitle III, Part B of Subtitle IV, or Part B of Subtitle VI
27 of this title who fails to allow the Secretary, or an employee designated
28 by the Secretary, promptly upon demand to inspect and copy any record
29 or inspect and examine equipment, lands, buildings and other property
30 in accordance with sections 504(c), 5121(c), and 14122(b) of this title
31 shall be liable to the United States for a civil penalty not to exceed \$500

1 for each offense, and each day the Secretary is denied the right to
2 inspect and copy any record or inspect and examine equipment, lands,
3 buildings and other property shall constitute a separate offense, except
4 that the total of all civil penalties against any violator for all offenses
5 related to a single violation shall not exceed \$5,000. It shall be a
6 defense to such penalty that the records did not exist at the time of the
7 Secretary's request or could not be timely produced without
8 unreasonable expense or effort. Nothing herein amends or supersedes
9 any remedy available to the Secretary under sections 502(d), 507(c), or
10 other provision of this title.”.

11 **SEC. 4005. MEDICAL REVIEW BOARD AND MEDICAL**
12 **EXAMINERS.**

13 (a) MEDICAL REVIEW BOARD. –

14 (1) ESTABLISHMENT AND FUNCTION. – The Federal
15 Motor Carrier Safety Administrator shall establish a Medical Review
16 Board as an advisory committee to provide the Federal Motor Carrier
17 Safety Administration with medical advice and recommendations on
18 driver qualification medical standards and guidelines, medical examiner
19 education, and medical research.

20 (2) COMPOSITION. – The Medical Review Board shall be
21 appointed by the Secretary and shall consist of 5 members selected from
22 medical institutions and private practice. The membership shall reflect
23 expertise in a variety of specialties relevant to the functions of the
24 Federal Motor Carrier Safety Administration.

25 (3) TERMINATION DATE. – The Medical Review Board shall
26 remain in effect until September 30, 2009.

27 (b) MEDICAL EXAMINERS.--Section 31136(a)(3) of title 49, United
28 States Code, is amended to read as follows:

29 “(3) the physical condition of operators of commercial motor
30 vehicles is adequate to enable them to operate the vehicles safely, and
31 the periodic physical examinations required of such operators are

1 performed by medical examiners who have received training in physical
2 and medical examination standards and are listed on a national registry
3 maintained by the Department of Transportation;”.

4 **SEC. 4006. ENFORCEMENT OF HOUSEHOLD GOODS**
5 **REGULATIONS.**

6 (a) DISPUTE SETTLEMENT PROGRAM FOR HOUSEHOLD
7 GOODS CARRIERS.--

8 (1) Section 14708(a) of title 49, United States Code, is amended
9 to read as follows:

10 “(a) SHIPPER ARBITRATION. – (1) As a condition of registration
11 under section 13902 or 13903, a carrier providing transportation of household
12 goods subject to jurisdiction under subchapter I or III of chapter 135 must agree
13 to offer in accordance with this section to shippers of household goods
14 arbitration as a means of settling disputes between such carriers and shippers.
15 However, the carrier may not require the shipper to agree to use arbitration
16 prior to the time that a dispute arises.

17 “(2) If the dispute involves a claim for \$5,000 or less and the shipper
18 requests arbitration, such arbitration shall be binding on the parties. If the
19 dispute involves a claim for more than \$5,000 and the shipper requests
20 arbitration, such arbitration shall be binding on the parties only if the carrier
21 agrees to arbitration.”.

22 (2) Subsection (b)(6) of section 14708 is deleted, and
23 subsections (b)(7) and (b)(8) are redesignated as subsections (b)(6) and
24 (b)(7), respectively.

25 (b)(1) Chapter 147 of title 49, United States Code, is amended by
26 adding new section 14710 at the end, to read as follows:

27 **“§ 14710. Enforcement by State attorneys general**

28 “(a) IN GENERAL.–A State, as parens patriae, may bring a civil action
29 on behalf of its residents in an appropriate district court of the United States to
30 enforce this part, or a regulation or order of the Secretary or Board, as
31 applicable, or to impose the civil penalties authorized by this part or such

1 regulation or order, whenever the attorney general of the State has reason to
2 believe that the interests of the residents of the State have been or are being
3 threatened or adversely affected by (1) a carrier or broker providing
4 transportation subject to jurisdiction under subchapter I or III of chapter 135 of
5 this title, or (2) a foreign motor carrier providing transportation registered under
6 section 13902 of this title, that is engaged in household goods transportation
7 that violates this part or a regulation or order of the Secretary or Board, as
8 applicable.

9 “(b) NOTICE.—The State shall serve prior written notice of any civil
10 action under subsection (a) or (e)(2) upon the Secretary or Board, as applicable,
11 and provide the Secretary or Board with a copy of its complaint, except that if it
12 is not feasible for the State to provide such prior notice, the State shall serve
13 such notice immediately upon instituting such action. Upon receiving a notice
14 respecting a civil action, the Secretary or Board shall have the right--

15 “(1) to intervene in such action;

16 “(2) upon so intervening, to be heard on all matters arising
17 therein; and

18 “(3) to file petitions for appeal.

19 “(c) CONSTRUCTION.—For purposes of bringing any civil action
20 under subsection (a), nothing in this Act shall prevent an attorney general from
21 exercising the powers conferred on the attorney general by the laws of such
22 State to conduct investigations or to administer oaths or affirmations or to
23 compel the attendance of witnesses or the production of documentary and other
24 evidence.

25 “(d) VENUE; SERVICE OF PROCESS. – In a civil action brought
26 under subsection (a) of this section,

27 “(1) trial is in the judicial district in which--

28 “(A) the carrier, foreign motor carrier, or broker operates;

29 “(B) the carrier, foreign motor carrier, or broker was authorized to
30 provide transportation or service under this part when the violation
31 occurred; or

1 “(C) the offender is found;

2 “(2) process may be served without regard to the territorial limits of the
3 district or of the State in which the action is instituted; and

4 “(3) a person participating with a carrier or broker in a violation may be
5 joined in the civil action without regard to the residence of the person.

6 “(e) ACTIONS BY OTHER STATE OFFICIALS. –

7 “(1) Nothing contained in this section shall prohibit an
8 authorized State official from proceeding in State court on the basis of
9 an alleged violation of any criminal statute of such State.

10 “(2) In addition to actions brought by an attorney general of a
11 State under subsection (a), such an action may be brought by officers of
12 such State who are authorized by the State to bring actions in such State
13 on behalf of its residents.”.

14 (2) CONFORMING AMENDMENT.--The table of sections at the
15 beginning of chapter 147 of title 49, United States Code, is amended by
16 inserting after the item relating to section 14709 the following:

17 “14710. Enforcement by State attorneys general.”.

18 **SEC. 4007. REGISTRATION OF COMMERCIAL MOTOR**
19 **CARRIERS,**

20 **FREIGHT FORWARDERS, AND BROKERS.**

21 (a) Sections 13102(6), (7), (12) and (13) of title 49, United States Code,
22 are amended to read as follows:

23 “(6) FOREIGN MOTOR CARRIER. – The term ‘foreign motor
24 carrier’ means a person (including a motor carrier of property but
25 excluding a motor private carrier)–

26 “(A)(i) that is domiciled in a contiguous foreign
27 country; or

28 “(ii) that is owned or controlled by persons of a
29 contiguous foreign country; and

30 “(B) in the case of a person that is not a motor carrier of
31 property, that provides interstate transportation of property by

1 commercial motor vehicle, as defined in section 31132(1) of this
2 title, under an agreement or contract entered into with a motor
3 carrier of property (other than a motor private carrier or a motor
4 carrier of property described in subparagraph (A)).

5 “(7) FOREIGN MOTOR PRIVATE CARRIER. – The term
6 ‘foreign motor private carrier’ means a person (including a motor
7 private carrier but excluding a motor carrier of property) –

8 “(A)(i) that is domiciled in a contiguous foreign country;

9 or

10 “(ii) that is owned or controlled by persons of a
11 contiguous foreign country; and

12 “(B) in the case of a person that is not a motor private carrier,
13 that provides interstate transportation of property by commercial motor
14 vehicle, as defined in section 31132(1) of this title, under an agreement
15 or contract entered into with a person (other than a motor carrier of
16 property or a motor private carrier described in subparagraph (A)).”

17 * * * * *

18 “(12) MOTOR CARRIER. – The term ‘motor carrier’ means a
19 person providing transportation for compensation by commercial motor
20 vehicle, as defined in section 31132(1) of this title.

21 “(13) MOTOR PRIVATE CARRIER. – The term ‘motor private
22 carrier’ means a person, other than a motor carrier, transporting
23 property by commercial motor vehicle, as defined in section 31132(1)
24 of this title, when–

25 “(A) the transportation is as provided in section 13501 of
26 this title;

27
28 “(B) the person is the owner, lessee, or bailee of the
29 property being transported; and
30

1 “(C) the property is being transported for sale, lease,
2 rent, or bailment or to further a commercial enterprise.”.

3 (b) Section 13903(a) of title 49, United States Code, is amended to read
4 as follows:

5 “(a) IN GENERAL.--(1) The Secretary of Transportation shall register a
6 person to provide service subject to jurisdiction under subchapter III of chapter
7 135 as a freight forwarder of household goods if the Secretary finds that the
8 person is fit, willing, and able to provide the service and to comply with this
9 part and applicable regulations of the Secretary and the Board.

10 “(2) The Secretary may register a person to provide service subject to
11 jurisdiction under subchapter III of chapter 135 as a freight forwarder if the
12 Secretary finds that such registration is needed for the protection of shippers
13 and that the person is fit, willing, and able to provide the service and to comply
14 with this part and applicable regulations of the Secretary and Board.”.

15 (c) Section 13904(a) of title 49, United States Code, is amended to read
16 as follows:

17 “(a) IN GENERAL.-- (1) The Secretary of Transportation shall register,
18 subject to section 13906(b), a person to be a broker for transportation of
19 household goods subject to jurisdiction under subchapter I of chapter 135, if the
20 Secretary finds that the person is fit, willing, and able to be a broker for
21 transportation of household goods and to comply with this part and applicable
22 regulations of the Secretary.

23 “(2) The Secretary may register, subject to section 13906(b), a person to
24 be a broker for transportation of other property subject to jurisdiction under
25 subchapter I of chapter 135, if the Secretary finds that such registration is
26 needed for the protection of shippers and that the person is fit, willing, and able
27 to be a broker for transportation and to comply with this part and applicable
28 regulations of the Secretary.”.

29 **SEC. 4008. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR**
30 **CARRIERS.**

1 (a)(1) Section 31138(a) of title 49, United States Code, is amended to
2 read as follows:

3 “(a) GENERAL REQUIREMENT.—The Secretary of Transportation
4 shall prescribe regulations to require minimum levels of financial responsibility
5 sufficient to satisfy liability amounts established by the Secretary covering
6 public liability and property damage for the transportation of passengers by
7 motor vehicle in the United States between a place in a State and--

8 “(1) a place in another State;

9 “(2) another place in the same State through a place outside of that
10 State; or

11 “(3) a place outside the United States.”.

12 (2) Section 31138(c) of title 49, United States Code, is amended by
13 adding paragraph (4) at the end, to read as follows:

14 “(4) The Secretary may require a person, other than a motor carrier as
15 defined in section 13102(12) of this title, transporting passengers by motor
16 vehicle to file with the Secretary the evidence of financial responsibility
17 specified in subsection (c)(1) of this section in an amount not less than that
18 required by this section, and the laws of the State or States in which the person
19 is operating, to the extent applicable. The amount of the financial
20 responsibility must be sufficient to pay, not more than the amount of the
21 financial responsibility, for each final judgment against the person for bodily
22 injury to, or death of, an individual resulting from the negligent operation,
23 maintenance, or use of motor vehicles, or for loss or damage to property, or
24 both.”.

25 (b)(1) Section 31139(b)(1) of title 49, United States Code, is amended
26 to read as follows:

27 “(b) GENERAL REQUIREMENTS AND MINIMUM AMOUNT.—(1)
28 The Secretary of Transportation shall prescribe regulations to require minimum
29 levels of financial responsibility sufficient to satisfy liability amounts
30 established by the Secretary covering public liability, property damage, and

1 environmental restoration for the transportation of property by motor vehicle in
2 the United States between a place in a State and –

3 "(A) a place in another State;

4 "(B) another place in the same State through a place outside of that
5 State; or

6 "(C) a place outside the United States.”.

7 (2) Subsections (c) through (g) of section 31139 of title 49, United
8 States Code, are redesignated as subsections (d) through (h), and new
9 subsection (c) is inserted after subsection (b), to read as follows:

10 “(c) **FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.**–

11 The Secretary may require a motor private carrier, as defined in section 13102
12 of this title, to file with the Secretary the evidence of financial responsibility
13 specified in subsection (b) of this section in an amount not less than that
14 required by this section, and the laws of the State or States in which the motor
15 private carrier is operating, to the extent applicable. The amount of the
16 financial responsibility must be sufficient to pay, not more than the amount of
17 the financial responsibility, for each final judgment against the motor private
18 carrier for bodily injury to, or death of, an individual resulting from negligent
19 operation, maintenance, or use of motor vehicles, or for loss or damage to
20 property, or both.”.

21 **SEC. 4009. INCREASED PENALTIES FOR OUT-OF-SERVICE**
22 **VIOLATIONS AND FALSE RECORDS.**

23 (a) Section 521(b)(2)(B) of title 49, United States Code, is amended to
24 read as follows:

25 “(B) **RECORDKEEPING AND REPORTING VIOLATIONS.**—A

26 person required to make a report to the Secretary, answer a question, or make,
27 prepare, or preserve a record under section 504 of this title or under any
28 regulation issued by the Secretary pursuant to subchapter III of chapter 311
29 (except sections 31138 and 31139) or section 31502 of this title about
30 transportation by motor carrier, motor carrier of migrant workers, or motor
31 private carrier, or an officer, agent, or employee of that person—

1 “(i) who does not make that report, does not specifically,
2 completely, and truthfully answer that question in 30 days from the date
3 the Secretary requires the question to be answered, or does not make,
4 prepare, or preserve that record in the form and manner prescribed by
5 the Secretary, shall be liable to the United States for a civil penalty in an
6 amount not to exceed \$1,000 for each offense, and each day of the
7 violation shall constitute a separate offense, except that the total of all
8 civil penalties assessed against any violator for all offenses related to
9 any single violation shall not exceed \$10,000; or

10 “(ii) who knowingly falsifies, destroys, mutilates, or changes a
11 required report or record, knowingly files a false report with the
12 Secretary, knowingly makes or causes or permits to be made a false or
13 incomplete entry in that record about an operation or business fact or
14 transaction, or knowingly makes, prepares, or preserves a record in
15 violation of a regulation or order of the Secretary, shall be liable to the
16 United States for a civil penalty in an amount not to exceed \$10,000 for
17 each violation, if any such action can be shown to have misrepresented
18 a fact that constitutes a violation other than a reporting or recordkeeping
19 violation.”.

20 (b) Section 31310(i)(2) of title 49, United States Code, is amended to
21 read as follows:

22 “(2) The Secretary shall prescribe regulations establishing sanctions and
23 penalties related to violations of out-of-service orders by individuals operating
24 commercial motor vehicles. The regulations shall require at least that--

25 “(A) an operator of a commercial motor vehicle found to have
26 committed a first violation of an out-of-service order shall be
27 disqualified from operating such a vehicle for at least 180 days and
28 liable for a civil penalty of at least \$2,500;

29 “(B) an operator of a commercial motor vehicle found to have
30 committed a second violation of an out-of-service order shall be

1 disqualified from operating such a vehicle for at least 2 years and not
2 more than 5 years and liable for a civil penalty of at least \$5,000;

3 “(C) an employer that knowingly allows or requires an
4 employee to operate a commercial motor vehicle in violation of an out-
5 of-service order shall be liable for a civil penalty of not more than
6 \$25,000; and

7 “(D) an employer that knowingly and willfully allows or
8 requires an employee to operate a commercial motor vehicle in
9 violation of an out-of-service order shall, upon conviction, be subject
10 for each offense to imprisonment for a term not to exceed one year or a
11 fine under title 18, United States Code, or both.”

12 **SEC. 4010. ELIMINATION OF COMMODITY AND SERVICE**
13 **EXEMPTIONS.**

14 (a) Section 13506(a) of title 49, United States Code, is amended--

15 (1) by deleting paragraphs (2), (6), (11), (12), (13), and (15); and

16 (2) by redesignating paragraphs (3), (4), (5), (7), (8), (9), (10), and (14) as
17 paragraphs (2), (3), (4), (5), (6), (7), (8), and (9), respectively.

18 (b) The first sentence of section 13507 of title 49, United States Code, is
19 amended to read as follows:

20 “A motor carrier of property providing transportation exempt from jurisdiction
21 under paragraph (6) of section 13506(a) may transport property under such
22 paragraph in the same vehicle and at the same time as property which the
23 carrier is authorized to transport under a registration issued under section
24 13902(a).”

25 **SEC. 4011. INTRASTATE OPERATIONS OF INTERSTATE**
26 **MOTOR CARRIERS.**

27 (a) Subsection (a) of section 31144 of title 49, United States Code, is
28 amended to read as follows:

29 “(a) IN GENERAL. – The Secretary shall –

30 “(1) determine whether an owner or operator is fit to operate safely
31 commercial motor vehicles, utilizing among other things the accident

1 record of an owner or operator operating in interstate commerce and the
2 accident record and safety inspection record of such owner or operator in
3 operations that affect interstate commerce;

4 “(2) periodically update such safety fitness determinations;

5 “(3) make such final safety fitness determinations readily available
6 to the public; and

7 “(4) prescribe by regulation penalties for violations of this section
8 consistent with section 521.”

9 (b) Subsection (c) of section 31144 of title 49, United States Code, is
10 amended by adding new paragraph (5) at the end, to read as follows:

11 “(5) TRANSPORTATION AFFECTING INTERSTATE
12 COMMERCE.—Owners or operators of commercial motor vehicles prohibited
13 from operating in interstate commerce pursuant to paragraphs (1) through (3) of
14 this section may not operate any commercial motor vehicle that affects
15 interstate commerce until the Secretary determines that such owner or operator
16 is fit.”

17 (c) Subsections (d) and (e) of section 31144 of title 49, United States
18 Code, are redesignated as subsections (e) and (f), respectively, and new
19 subsection (d) is added after subsection (c), to read as follows:

20 “(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State
21 that receives Motor Carrier Safety Assistance Program funds pursuant to
22 section 31102 of this title determines, by applying the standards prescribed by
23 the Secretary under subsection (b) of this section, that an owner or operator of
24 commercial motor vehicles that has its principal place of business in that State
25 and operates in intrastate commerce is unfit under such standards and prohibits
26 the owner or operator from operating such vehicles in the State, the Secretary
27 shall prohibit the owner or operator from operating such vehicles in interstate
28 commerce until the State determines that the owner or operator is fit.”

29 **SEC. 4012. AUTHORITY TO STOP COMMERCIAL MOTOR**
30 **VEHICLES.**

1 (a) Chapter 2 of title 18, United States Code, is amended by adding at
2 the end new section 38, to read as follows:

3 **“§ 38. Commercial motor vehicles required to stop for inspections**

4 “(a) A driver of a commercial motor vehicle, as defined in 49 U.S.C.
5 31132(1), shall stop and submit to inspection of the vehicle, driver, cargo, and
6 required records when directed to do so by a uniformed special agent of the
7 Federal Motor Carrier Safety Administration, Department of Transportation, at
8 or in the vicinity of an inspection site. The driver shall not leave the inspection
9 site until authorized to do so by an agent.

10 “(b) A driver of a commercial motor vehicle, as defined in subsection
11 (a), who knowingly fails to stop for inspection when directed to do so by a
12 uniformed special agent of the Federal Motor Carrier Safety Administration at
13 or in the vicinity of an inspection site, or leaves the inspection site without
14 authorization, shall be fined under this title or imprisoned not more than one
15 year, or both.”.

16 (b) Chapter 203 of title 18, United States Code, is amended by adding at
17 the end new section 3064, to read as follows:

18 **“§ 3064. Powers of Federal Motor Carrier Safety Administration**

19 “Uniformed special agents of the Federal Motor Carrier Safety
20 Administration may direct a driver of a commercial motor vehicle, as defined
21 in 49 U.S.C. 31132(1), to stop for inspection of the vehicle, driver, cargo, and
22 required records at or in the vicinity of an inspection site.”.

23 (c) CONFORMING AMENDMENTS.--

24 (1) The table of sections at the beginning of chapter 2 of title 18,
25 United States Code, is amended by inserting after the item relating to section
26 37 the following:

27 “38. Commercial motor vehicles required to stop for inspections.”.

28 (2) The table of sections at the beginning of chapter 203 of title 18,
29 United States Code, is amended by inserting after the item relating to section
30 3063 the following:

31 “3064. Powers of the Federal Motor Carrier Safety Administration.”.

1 **SEC. 4013. PATTERN OF SAFETY VIOLATIONS BY MOTOR**
2 **CARRIER MANAGEMENT.**

3 (a) Section 31135 of title 49, United States Code, is amended by
4 designating the existing text as subsection “(a) IN GENERAL.--” and adding
5 new subsections (b), (c), (d), and (e), to read as follows:

6 “(b) PATTERN OF NON-COMPLIANCE.--If an officer of a motor
7 carrier engages in a pattern or practice of avoiding compliance, or masking or
8 otherwise concealing non-compliance, with regulations on commercial motor
9 vehicle safety prescribed under this subchapter, the Secretary may suspend,
10 amend, or revoke any part of the motor carrier’s registration under section
11 13905 of this title.

12 “(c) LIST OF PROPOSED OFFICERS.--Each person seeking
13 registration as a motor carrier under section 13902 of this title shall submit a
14 list of the proposed officers of the motor carrier. If the Secretary determines
15 that any of the proposed officers has previously engaged in a pattern or practice
16 of avoiding compliance, or masking or otherwise concealing non-compliance,
17 with regulations on commercial motor vehicle safety prescribed under this
18 chapter, the Secretary may deny the person’s application for registration as a
19 motor carrier under section 13902(a)(3).

20 “(d) REGULATIONS.--The Secretary shall by regulation establish
21 standards to implement subsections (b) and (c).

22 “(e) DEFINITIONS.--In this section –

23 “(1) ‘motor carrier’ has the same meaning as in section
24 13102(12) of this title; and

25 “(2) ‘officer’ means an owner, chief executive officer, chief
26 operating officer, chief financial officer, safety director, vehicle
27 maintenance supervisor and driver supervisor of a motor carrier,
28 regardless of the title attached to those functions.”.

29 (b) Section 13902(a)(1)(B) of title 49, United States Code, is amended
30 to read as follows:

1 “(B) any safety regulations imposed by the Secretary; the duties of
2 employers and employees established by the Secretary under section 31135;
3 and the safety fitness requirements established by the Secretary under section
4 31144; and”.

5 **SEC. 4014. MOTOR CARRIER RESEARCH AND TECHNOLOGY**
6 **PROGRAM.**

7 (a) In General. – Title 49, United States Code, is amended by repealing
8 section 31108 and inserting the following new section, to read as follows:

9 **“§ 31108. Motor carrier research and technology program**

10 “(a) RESEARCH, TECHNOLOGY AND TECHNOLOGY
11 TRANSFER ACTIVITIES.--(1) The Secretary of Transportation shall establish
12 and carry out a motor carrier research and technology program. The Secretary
13 may carry out research, development, technology, and technology transfer
14 activities with respect to--

15 “(A) the causes of accidents, injuries and fatalities involving
16 commercial motor vehicles; and

17 “(B) means of reducing the number and severity of accidents,
18 injuries and fatalities involving commercial motor vehicles.

19 “(2) The Secretary may test, develop, or assist in testing and developing
20 any material, invention, patented article, or process related to the research and
21 technology program.

22 “(3) The Secretary may use the funds appropriated to carry out this
23 section for training or education of commercial motor vehicle safety personnel,
24 including, but not limited to, training in accident reconstruction and detection
25 of controlled substances or other contraband, and stolen cargo or vehicles.

26 “(4) The Secretary may carry out this section –

27 “(A) independently;

28 “(B) in cooperation with other Federal departments, agencies, and
29 instrumentalities and Federal laboratories; or

30 “(C) by making grants to, or entering into contracts, cooperative
31 agreements, and other transactions with, any Federal laboratory, State agency,

1 authority, association, institution, for-profit or non-profit corporation,
2 organization, foreign country, or person.

3 “(5) The Secretary shall use funds made available to carry out
4 this section to develop, administer, communicate, and promote the use
5 of products of research, technology, and technology transfer programs
6 under this section.

7 “(b) COLLABORATIVE RESEARCH AND
8 DEVELOPMENT.--(1) To advance innovative solutions to problems involving
9 commercial motor vehicle and motor carrier safety, security, and efficiency,
10 and to stimulate the deployment of emerging technology, the Secretary may
11 carry out, on a cost-shared basis, collaborative research and development with

12 –
13 “(A) non-Federal entities, including State and local
14 governments, foreign governments, colleges and universities,
15 corporations, institutions, partnerships, and sole proprietorships that are
16 incorporated or established under the laws of any State; and

17 “(B) Federal laboratories.

18 “(2) In carrying out this subsection, the Secretary may enter into
19 cooperative research and development agreements (as defined in section 12 of
20 the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

21 “(3)(A) The Federal share of the cost of activities carried out under a
22 cooperative research and development agreement entered into under this
23 subsection shall not exceed 50 percent, except that if there is substantial public
24 interest or benefit, the Secretary may approve a greater Federal share.

25 “(B) All costs directly incurred by the non-Federal partners, including
26 personnel, travel, and hardware or software development costs, shall be
27 credited toward the non-Federal share of the cost of the activities described in
28 subparagraph (A).

29 “(4) The research, development, or use of a technology under a
30 cooperative research and development agreement entered into under this
31 subsection, including the terms under which the technology may be licensed

1 and the resulting royalties may be distributed, shall be subject to the Stevenson-
2 Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

3 “(5) Section 3705 of title 41, United States Code, shall not apply to a
4 contract or agreement entered into under this section.

5 “(c) AVAILABILITY OF AMOUNTS.—The amounts made available
6 under section 4001(b) of the Safe, Accountable, Flexible, and Efficient
7 Transportation Equity Act of 2003 to carry out this section shall remain
8 available until expended.

9 “(d) CONTRACT AUTHORITY. – Approval by the Secretary of a
10 grant with funds made available under section 4001(b) of the Safe,
11 Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry
12 out this section imposes upon the United States Government a contractual
13 obligation for payment of the Government’s share of costs incurred in carrying
14 out the objectives of the grant.”.

15 (b) CONFORMING AMENDMENT. – The table of sections at the
16 beginning of chapter 311 of title 49, United States Code, is amended by
17 revising the item relating to section 31108 to read as follows:
18 “31108. Motor carrier research and technology program.”.

19 **SEC. 4015. INTERNATIONAL COOPERATION.**

20 (a) Chapter 311 of title 49, United States Code, is amended by inserting
21 at the end the following:

22 “SUBCHAPTER IV – MISCELLANEOUS

23 “§ 31161. **International cooperation**

24 “The Secretary is authorized to use funds appropriated under section
25 31104(i) of this title to participate and cooperate in international activities to
26 enhance motor carrier, driver, and highway safety by such means as
27 exchanging information, conducting research; and examining needs, best
28 practices, and new technology.”.

29 (b) Clerical amendment. – The table of sections at the beginning of
30 chapter 311 of title 49, United States Code, is amended by adding at the end the
31 following:

1 "SUBCHAPTER IV – MISCELLANEOUS

2 "31161. International cooperation."

3 **SEC. 4016. PERFORMANCE AND REGISTRATION INFORMATION**
4 **SYSTEM MANAGEMENT (PRISM).**

5 (a) Paragraphs (2) and (3) of section 31106(b) of title 49, United States
6 Code, are amended to read as follows:

7 "(2) The program shall link Federal motor carrier safety information
8 systems with State commercial vehicle registration and licensing systems and
9 shall be designed to enable a State to –

10 "(A) determine the safety fitness of a motor carrier or registrant
11 when licensing or registering the registrant or motor carrier or while the
12 license or registration is in effect; and

13 "(B) deny, suspend, or revoke the commercial motor vehicle
14 registrations of a motor carrier or registrant that has been issued an
15 operations out-of-service order by the Secretary.

16 "(3) The Secretary shall require States, as a condition of participation in
17 the program, to –

18 "(A) comply with the uniform policies, procedures, and
19 technical and operational standards prescribed by the Secretary under
20 subsection (a)(4); and

21 "(B) possess or seek the authority to deny, suspend, or revoke
22 commercial motor vehicle registrations based on the issuance of an
23 operations out-of-service order by the Secretary."

24 (b) DELETION.--Paragraph (4) of section 31106(b) of title 49, United
25 States Code, is deleted.

26 (c) PERFORMANCE AND REGISTRATION INFORMATION
27 SYSTEM MANAGEMENT GRANTS.--(1) Chapter 311 of title 49, United
28 States Code, as amended by this Act, is further amended by adding a new
29 section after section 31108, to read as follows:

30 **"§ 31109. Performance and Registration Information System**
31 **Management (PRISM)**

1 “(a) IN GENERAL.--From the funds authorized by section 4001(c)(3)
2 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of
3 2003, the Secretary may make a grant in a fiscal year to a State to implement
4 the Performance and Registration Information System Management
5 requirements of 49 U.S.C. 31106(b).

6 “(b) AVAILABILITY OF AMOUNTS.--Amounts made available to a
7 State under section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient
8 Transportation Equity Act of 2003 to carry out this section shall remain
9 available until expended.

10 “(c) SECRETARY'S APPROVAL.--Approval by the Secretary of a
11 grant to a State under section 4001(c)(3) of the Safe, Accountable, Flexible,
12 and Efficient Transportation Equity Act of 2003 to carry out this section is a
13 contractual obligation of the Government for payment of the amount of the
14 grant.”.

15 (2) CONFORMING AMENDMENT.--The table of sections at the
16 beginning of chapter 311 of title 49, United States Code, is amended after the
17 item relating to section 31108 by adding the following:

18 “31109. Performance and Registration Information System Management
19 (PRISM).”.

20 **SEC. 4017. INFORMATION SYSTEMS AND DATA ANALYSIS.**

21 The Secretary of Transportation shall carry out a program to improve
22 the collection and analysis of safety data on, including crash causation
23 involving, commercial motor vehicles.

24 **SEC. 4018. OUTREACH AND EDUCATION.**

25 (a) IN GENERAL.--The Secretary shall conduct an outreach and
26 education program to be administered by the Federal Motor Carrier Safety
27 Administration. The program shall include expanded implementation of the
28 “Share the Road Safely” and “Safety is Good Business” programs. The Federal
29 Motor Carrier Safety Administration shall establish programs to directly
30 educate the industry and public about the requirements of new and existing
31 regulatory requirements. The Secretary, through the Federal Motor Carrier

1 Safety Administration, may undertake other outreach and education initiatives
2 that may reduce the number of accidents, injuries, and fatalities involving
3 commercial motor vehicles.

4 (b) LIKELY RISK FACTORS.--The Secretary, through the Federal
5 Motor Carrier Safety Administration, shall conduct an outreach program to
6 identify the practices of commercial motor vehicle drivers that are most likely
7 to increase and decrease the risk of accidents.

9 TITLE V--TRANSPORTATION RESEARCH AND EDUCATION

11 Subtitle A--Funding

13 SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.

14 (a) IN GENERAL.--The following sums are authorized to be appropriated
15 out of the Highway Trust Fund (other than the Mass Transit Account):

16 (1) SURFACE TRANSPORTATION RESEARCH,
17 DEVELOPMENT AND DEPLOYMENT PROGRAM.—To carry out
18 sections 502, 503, 506 and 507 of title 23, United States Code, and section
19 5206 of this Act relating to research, development, technology transfer,
20 technology deployment, and application activities, \$199,000,000 for each
21 of fiscal years 2004 through 2009.

22 (2) TRAINING AND EDUCATION.--For carrying out section 504
23 of title 23, United States Code, \$26,000,000 for each of fiscal years 2004
24 through 2009.

25 (3) BUREAU OF TRANSPORTATION STATISTICS.-For the
26 Bureau of Transportation Statistics to carry out section 111 of title 49,
27 United States Code, the following:

28 (A) \$31,568,000 for fiscal year 2004.

29 (B) \$32,199,000 for fiscal year 2005.

30 (C) \$32,869,000 for fiscal year 2006.

1 (D) \$33,609,000 for fiscal year 2007.

2 (E) \$34,439,000 for fiscal year 2008.

3 (F) \$35,276,000 for fiscal year 2009.

4 (4) UNIVERSITY TRANSPORTATION RESEARCH.—For
5 carrying out section 5505 of title 49, United States Code, \$26,500,000 for
6 each of fiscal years 2004 through 2009.

7 (5) INTELLIGENT TRANSPORTATION SYSTEMS
8 RESEARCH.--For carrying out the Intelligent Transportation Systems Act
9 of 2003 under subtitle E of this title, \$121,000,000 for each of fiscal years
10 2004 through 2009.

11 (b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—Section
12 502 of title 23, United States Code, is amended—

13 (1) by striking subsection (b)(3); and

14 (2) by redesignating subsections (b)(4) and (b)(5) as (b)(3) and
15 (b)(4), respectively.

16 (c) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds
17 authorized to be appropriated by subsection (a) shall be available for obligation in
18 the same manner as if such funds were apportioned under chapter 1 of title 23,
19 United States Code except that the Federal share of the cost of a project or activity
20 carried out using such funds shall be 100 percent unless otherwise determined by
21 the Secretary or specified otherwise in this Act, and such funds shall remain
22 available until expended.

23 **Subtitle B--Research , Technology, and Education**

24 **SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.**

25 (a) RESEARCH, TECHNOLOGY, AND EDUCATION.—Title 23,
26 United States Code, is amended--

27 (1) in the table of chapters by striking:

28 “5. Research and Technology 501”;

29 and substituting:

30 “5. Research, Technology, and Education 501”; and

1 (2) by striking the heading--

2 "CHAPTER 5--RESEARCH AND TECHNOLOGY"

3 and inserting

4 "CHAPTER 5 – RESEARCH, TECHNOLOGY, AND EDUCATION.”.

5 (b) STATEMENT OF PRINCIPLES GOVERNING RESEARCH AND
6 TECHNOLOGY INVESTMENTS.--Section 502 of title 23, United States Code,
7 is amended:

8 (1) by redesignating subsections (a) through (g) as subsections (b)
9 through (h), respectively; and

10 (2) by inserting a new subsection (a) at the beginning, to read as
11 follows:

12 "(a) BASIC PRINCIPLES GOVERNING RESEARCH AND
13 TECHNOLOGY INVESTMENTS.--

14 "(1) COVERAGE.--Surface transportation research and
15 technology development (R&T) shall include all activities leading to
16 technology development and transfer, as well as the introduction of new
17 and innovative ideas, practices and approaches, through such mechanisms
18 as field applications, education and training, and technical support.

19 "(2) FEDERAL RESPONSIBILITY.--Funding and conducting
20 surface transportation research and technology transfer activities shall be
21 considered a basic responsibility of the Federal Government when--

22 "(A) the work is of national significance;

23 "(B) it supports research in which there is a clear public
24 benefit and private sector investment is less than optimal due to
25 market failure;

26 "(C) it supports a Federal stewardship role in assuring that
27 state and local governments use national resources efficiently; or

28 "(D) it presents the best means to support Federal policy
29 goals compared to other policy alternatives.

30 "(3) ROLE.--Consistent with these Federal responsibilities, the
31 Secretary of Transportation shall--

- 1 “(A) conduct research;
- 2 “(B) support and facilitate research and technology transfer
- 3 activities by state highway agencies;
- 4 “(C) share results of completed research; and
- 5 “(D) support and facilitate technology and innovation
- 6 deployment.

7 “(4) PROGRAM CONTENT.--A surface transportation research

8 program shall include--

- 9 “(A) fundamental, long-term highway research;
- 10 “(B) research aimed at significant highway research gaps,
- 11 and emerging issues with national implications; and,
- 12 “(C) research related to policy and planning.

13 “(5) STAKEHOLDER INPUT.--Federally-sponsored surface

14 transportation R&T activities shall address the needs of partners and

15 stakeholders, and provide for stakeholder input in preparation of a

16 strategic plan for surface transportation R&T.

17 “(6) COMPETITION.--To the greatest extent possible, investment

18 decisions for surface transportation R&T activities shall be based on the

19 well-established principles of competition and merit review.

20 “(7) PERFORMANCE REVIEW.--Surface transportation R&T

21 activities shall include a component of performance measurement.”.

22 (c) TRANSPORTATION POOLED FUND PROGRAM - Section 502(b)

23 of title 23, United States Code, as redesignated by this Act, is amended by

24 inserting the following at the end:

25 “(6) POOLED FUNDING. --

26 “(A) To promote effective utilization of available resources, the

27 Secretary may cooperate with the States and other appropriate agencies in

28 funding research, development, and technology transfer activities of

29 mutual interest on a pooled funds basis; and

30 “(B) The Secretary may enter into contracts, cooperative

31 agreements, grants, and other transactions as agent for all participating

1 parties in carrying out such research, development, or technology
2 transfer.”.

3 (d) OPERATIONS ELEMENTS IN RESEARCH ACTIVITIES - Section 502
4 of title 23, United States Code, is amended--

5 (1) in subsection (b)(1), as redesignated by this Act, by striking
6 subparagraphs (B) and (C) and inserting the following:

7 “(B) all phases of transportation planning and development
8 (including construction, transportation system management and
9 operations, modernization, development, design, maintenance, safety,
10 financing, and traffic conditions);

11 “(C) freight security processes and procedures; and

12 “(D) the effect of State laws on the activities described in
13 subparagraphs (A) and (B).”;

14 (2) in subsection (d)(5)(C), as redesignated by this Act, by inserting
15 “system management and” after “transportation”; and

16 (3) in subsection (d), as redesignated by this Act, by inserting at the end:

17 “(12) Investigation and development of various operational methodologies
18 to reduce the occurrence and impact of recurrent congestion and non-recurrent
19 congestion, and increase transportation system reliability.

20 “(13) Investigate processes, procedures, and technologies to secure
21 container and hazardous material transport, including the evaluation of
22 regulations, liability, terrorist countermeasures, and the impact of good security
23 practices on commerce and productivity.

24 “(14) Research, development, and technology transfer related to asset
25 management”.

26 (e) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.--Section
27 502 of title 23, United States Code, is amended by inserting at the end the
28 following:

29 “(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.--

30 “(1) IN GENERAL.--The Secretary shall operate in the Federal
31 Highway Administration a Turner-Fairbank Highway Research Center.

1 "(2) USES OF THE CENTER.--The Turner-Fairbank Highway
2 Research Center shall support the--

3 "(A) conduct of highway research and development related
4 to new highway technology;

5 "(B) development of understandings, tools, and techniques
6 that provide solutions to complex technical problems through the
7 development of economical and environmentally sensitive designs,
8 efficient and quality controlled construction practices, and durable
9 materials; and

10 "(C) development of innovative highway products and
11 practices."

12 (f) EXPLORATORY ADVANCED RESEARCH PROGRAM.--Section
13 502 of title 23, United States Code, is amended by striking subsection (e), as
14 redesignated by this Act, and inserting the following:

15 “(e) EXPLORATORY ADVANCED RESEARCH--

16 “(1) IN GENERAL.--The Secretary shall establish an exploratory
17 advanced research program, consistent with the surface transportation
18 research and technology development strategic plan developed under section
19 508, that involves and draws upon basic research results to provide a better
20 understanding of problems and develop innovative solutions. The phrase
21 "exploratory advanced research" conveys a more fundamental character,
22 broader objective, multi-disciplinary nature, and greater uncertainty in
23 expected outcomes than found in problem-solving research. In carrying out
24 the program, the Secretary shall strive to develop partnerships with the
25 public and private sectors.

26 “(2) RESEARCH AREAS.--In carrying out the program, the
27 Secretary may make grants and enter into cooperative agreements and
28 contracts in such areas of surface transportation research and technology as
29 the Secretary determines appropriate, including the following:

1 “(A) Characterization of materials used in highway
2 infrastructure, including analytical techniques, microstructure
3 modeling, and the deterioration processes.

4 “(B) Assessing the effects of transportation decisions on
5 human health.

6 “(C) Development of surrogate measures of safety.

7 “(D) Environmental research.

8 “(E) Data acquisition techniques for system condition and
9 performance monitoring.

10 “(F) System performance data and information processing
11 needed to assess the day-to-day operational performance of the
12 system in support of hour-to-hour operational decision-making.”.

13 (g) AUTHORITY TO PURCHASE PROMOTIONAL ITEMS.- Section
14 503 of title 23, United States Code, as amended by this Act, is further amended by
15 inserting the following at the end:

16 “(e) PROMOTIONAL AUTHORITY.--Funds authorized to be
17 appropriated under this or any other Act for necessary expenses for
18 administration and operation of the Federal Highway Administration shall be
19 available to purchase promotional items of nominal value for use in the
20 recruitment of individuals and to promote the programs of the Federal
21 Highway Administration.”.

22 (h) FACILITATING TRANSPORTATION RESEARCH AND
23 TECHNOLOGY DEPLOYMENT PARTNERSHIPS.--Section 502(c) of title 23,
24 United States Code, as redesignated by this Act, is amended by striking paragraph
25 (2) and inserting the following:

26 “(2) COOPERATION, GRANTS, CONTRACTS AND
27 AGREEMENTS. - Notwithstanding any other provision of law, the
28 Secretary may directly initiate contracts, cooperative research and
29 development agreements (as defined in section 12 of the Stevenson-
30 Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other
31 transactions to fund, and accept funds from, the National Research

1 Council/ Transportation Research Board, American Association of State
2 Highway and Transportation Officials, State Departments of
3 Transportation, cities, and counties, and their agents to conduct joint
4 transportation research and technology efforts.”.

5 (i) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

6 (1) SURFACE TRANSPORTATION RESEARCH.--Chapter 5 of title 23,
7 United States Code is amended by adding after section 504 the following:

8 **“§ 505. Surface transportation research**

9 “(a) AUTHORITY.--The Secretary of Transportation shall complete the
10 20-year long-term pavement performance program tests initiated under the
11 strategic highway research program established under section 307(d) (as in effect
12 on the day before the date of enactment of this section) and continued by the
13 Intermodal Surface Transportation Efficiency Act of 1991 and the Transportation
14 Equity Act For The 21st Century.

15 “(b) GRANTS, COOPERATIVE AGREEMENTS, AND
16 CONTRACTS.--Under the program, the Secretary shall make grants and enter
17 into cooperative agreements and contracts to--

18 “(1) monitor, material-test, and evaluate highway test sections in
19 existence as of the date of the grant, agreement, or contract;

20 “(2) analyze the data obtained in carrying out subparagraph (A);
21 and

22 “(3) prepare products to fulfill program objectives and meet future
23 pavement technology needs.”.

24 (2) CONFORMING AMENDMENT.—The analysis for chapter 5 of title
25 23 is amended by inserting after item 504 the following:

26 “505. Surface transportation research.”.

27 (j) PROCUREMENT FOR RESEARCH, DEVELOPMENT, AND
28 TECHNOLOGY TRANSFER ACTIVITIES.– Section 502(b) of title 23, United
29 States Code, as redesignated by this Act, is amended by striking paragraph (3) and
30 inserting the following:

1 “(3) COOPERATION, GRANTS, AND CONTRACTS.--The Secretary
2 may carry out research, development, and technology transfer activities related to
3 transportation--

4 “(A) independently;

5 “(B) in cooperation with other Federal departments, agencies,
6 and instrumentalities and Federal laboratories; or

7 “(C) by making grants to, or entering into contracts, cooperative
8 agreements, and other transactions with the following: the National
9 Academy of Sciences, the American Association of State Highway and
10 Transportation Officials, or any Federal laboratory, Federal agency, State
11 agency, authority, association, institution, for-profit or nonprofit
12 corporation, organization, foreign country, or person.”.

13 (k) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

14 (1) TITLE 23 AMENDMENT.--Section 502(h)(1) of title 23,
15 United States Code, as redesignated by this Act, is amended by striking
16 “Not later than January 31, 1999, and January 31 of every second year
17 thereafter,” and inserting “Not later than July 31, 2004, and July 31 of
18 every second year thereafter,”.

19 (2) CONFORMING AMENDMENT TO TITLE 49, UNITED
20 STATES CODE.--Section 308(e)(1) of title 49, United States Code, is
21 amended by striking "in March 1998, and in March of each even-
22 numbered year thereafter" and inserting "not later than July 31, 2004, and
23 July 31 of every second year thereafter,".

24 **SEC. 5202. SURFACE TRANSPORTATION ENVIRONMENT AND**
25 **PLANNING COOPERATIVE RESEARCH PROGRAM.**

26 (a) SURFACE TRANSPORTATION ENVIRONMENT AND
27 PLANNING COOPERATIVE RESEARCH PROGRAM.--Chapter 5 of title 23,
28 United States Code, is amended by striking section 507 and inserting the
29 following:

30 **“§ 507. Surface transportation environment and planning cooperative**
31 **research program**

1 “(a) ESTABLISHMENT.--The Secretary shall establish and support a
2 collaborative, public-private surface transportation environment and planning
3 cooperative research program.

4 “(b) AGREEMENT.--The Secretary shall enter into an agreement with the
5 National Academy of Sciences or other organization to support and carry out
6 administrative and management activities relating to the governance of the surface
7 transportation environment and planning cooperative research program.

8 “(c) ADVISORY BOARD.—The organization described in subsection (b)
9 shall select an advisory board drawn from core partners that represent
10 environment, transportation, and neutral interests, including the Department of
11 Transportation, other Federal agencies, the States, local governments, nonprofit
12 entities, academia, and the private sector.

13 “(d) GOVERNANCE.--The surface transportation environment and planning
14 cooperative research program established under this section shall include the
15 following administrative and management elements:

16 “(1) NATIONAL RESEARCH AGENDA.—The advisory board,
17 in consultation with core partners and other stakeholders, shall develop and
18 periodically update a national research agenda for the surface transportation
19 environment and planning cooperative research program. The national
20 research agenda shall include a multi-year strategic plan.

21 “(2) STAKEHOLDER INVOLVEMENT.—Stakeholders may:

22 “(A) submit research proposals;

23 “(B) participate in merit reviews of research proposals
24 and peer reviews of research products; and

25 “(C) receive research results.

26 “(3) OPEN COMPETITION AND PEER REVIEW OF
27 RESEARCH PROPOSALS.—The organization described in subsection (b)
28 may award research contracts and grants through open competition and merit
29 review conducted on a regular basis.

30 “(4) EVALUATION OF RESEARCH.—

1 “(A) PEER REVIEW.--Research contracts and grants
2 may allow peer review of the research results.

3 “(B) PROGRAMMATIC EVALUATIONS.--The
4 organization described in subsection (b) may conduct periodic
5 programmatic evaluations on a regular basis.

6 “(5) DISSEMINATION OF RESEARCH FINDINGS.-
7 - The organization described in subsection (b) shall disseminate
8 research findings to researchers, practitioners, and decision-
9 makers, through conferences and seminars, field demonstrations,
10 workshops, training programs, presentations, testimony to
11 government officials, world wide web, and publications for the
12 general public.

13 “(e) CONTENTS.--The national research agenda for the surface
14 transportation environment and planning cooperative research program required
15 under subsection (c)(2) shall include research in the following areas for the
16 purposes cited:

17 “(1) HUMAN HEALTH.—Human health to establish the links between
18 transportation activities and human health; substantiate the linkages between
19 exposure to concentration levels, emissions, and health impacts; examine the
20 potential health impacts from the implementation and operation of transportation
21 infrastructure and services; develop strategies for avoidance and reduction of
22 these impacts; and develop strategies to understand the economic value of health
23 improvements; and for incorporating health considerations into valuation
24 methods.

25 “(2) ECOLOGY AND NATURAL SYSTEMS.—Ecology and natural
26 systems to measure transportation’s short- and long-term impact on natural
27 systems; develop ecologically based performance measures; develop insight into
28 both the spatial and temporal issues associated with transportation and natural
29 systems; study the relationship between highway density and ecosystem integrity,
30 including the impacts of highway density on habitat integrity and overall
31 ecosystem health; develop a rapid assessment methodology for use by

1 transportation and regulatory agencies in determining the relationship between
2 highway density and ecosystem integrity; and develop ecologically based
3 performance techniques to evaluate the success of highway project mitigation and
4 enhancement measures.

5 “(3) ENVIRONMENTAL AND SOCIOECONOMIC
6 RELATIONSHIPS.—Environmental and socioeconomic relationships to
7 understand differences in mobility, access, travel behavior, and travel preferences
8 across socioeconomic groups; develop improved planning approaches that better
9 reflect and respond to community needs; improve evaluation methods for
10 examining the incidence of benefits and costs; examine the differential impacts of
11 current methods of finance and explore alternatives; understand the
12 socioeconomic implications of emerging land development patterns and new
13 transportation technologies; develop cost-effective applications of technology that
14 improve the equity of the transport system; and develop improved methods for
15 community involvement, collaborative planning, and conflict resolution.

16 “(4) EMERGING TECHNOLOGIES.—Emerging technologies to assist in
17 the transition to environmentally benign fuels and vehicles for passengers and
18 freight; develop responses to and demand for new technologies that could offer
19 improved environmental performance; identify possible applications of Intelligent
20 Transportation Systems technologies for environmental benefit; develop policy
21 instruments that would encourage the development of beneficial new technologies
22 in a cost-effective manner; and respond to the impact of new technologies.

23 “(5) LAND USE.—Land use to assess land consumption trends and
24 contributing factors of transportation investment, housing policies, school quality,
25 and consumer preferences; incorporate impacts of transportation investments on
26 location decision and land use; identify the costs and benefits of current
27 development patterns and their transportation implications; determine the effect of
28 the built environment on people’s willingness to walk, drive, or take public
29 transportation; determine the roles of public policy and institutional arrangements
30 in current and prospective land use and transportation choices; and develop

1 improved data, methods, and processes for considering land use, transportation,
2 and the environment in an integrated, systematic fashion.

3 “(6) PLANNING AND PERFORMANCE MEASURES.—Planning and
4 performance measures to improve understanding of travel needs and preferences;
5 improve planning methods for system analysis, forecasting, and decision making;
6 expand information on consumer choice processes and travel and activity patterns
7 for both local and long-distance trips and both passenger and freight
8 transportation analysis of social, environmental, and economic benefits and cost
9 of various transport options; develop tools for measuring and forecasting complex
10 transportation decision for all modes and users; and develop performance
11 measures and policy analysis approaches that can be used to determine
12 effectiveness.

13 “(7) ADDITIONAL PRIORITIES.—Additional priorities to identify and
14 address the emerging and future surface transportation research needs related to
15 planning and environment.

16 “(f) FUNDING.--In addition to using funds authorized for this section, the
17 organization that administers this program may seek and accept additional
18 funding sources from public and private entities capable of attracting and
19 accepting funding from the United States Department of Transportation (Federal
20 Highway Administration, Federal Transit Administration, Federal Railroad
21 Administration, Research and Special Programs Administration, and the National
22 Highway Traffic Safety Administration), Environmental Protection Agency,
23 Department of Energy, Fish and Wildlife and other Federal environmental
24 agencies, states, local governments, nonprofit foundations, and the private
25 sector.”.

26 (b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23,
27 United States Code, is amended by striking the item related to section 507 and
28 inserting the following:

29 “507. Surface transportation environment and planning cooperative research
30 program.”.

1 **SEC. 5203. LONG-TERM BRIDGE PERFORMANCE PROGRAM;**
2 **INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.**

3 (a) LONG-TERM BRIDGE PERFORMANCE PROGRAM.--Section 502
4 of title 23, United States Code, is amended by striking 502(g), as redesignated by
5 this Act, and inserting the following:

6 “(g) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

7 “(1) AUTHORITY.—The Secretary shall establish a 20
8 year long-term bridge performance program.

9 “(2) GRANTS, COOPERATIVE AGREEMENTS, AND
10 CONTRACTS.—Under the program, the Secretary shall make
11 grants and enter into cooperative agreements and contracts to—

12 “(A) monitor, material-test, and evaluate test
13 bridges;

14 “(B) analyze the data obtained in carrying out
15 subparagraph (A); and

16 “(C) prepare products to fulfill program objectives
17 and meet future bridge technology needs.”.

18 (b) INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT
19 PROGRAM.—

20 (1) IN GENERAL.--Section 503(b) of title 23, United States Code,
21 is amended by striking 503(b)(1) and inserting:

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

27 (2) GOALS.—Section 503(b)(2) of such title is amended by
28 striking 503(b)(2) and inserting:

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

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

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

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

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

9 “(E) the development of highway bridges and structures
10 that will withstand natural disasters and terrorist attacks;

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

14 “(G) the effective transfer of resulting information and
15 technology.”.

16 **SEC. 5204. TECHNOLOGY DEPLOYMENT.**

17 (a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 503(a) of
18 title 23, United States Code, is amended:

19 (1) in the subsection heading, by striking “initiatives and
20 partnerships”;

21 (2) by striking paragraph (1) and inserting the following:

22 “(1) ESTABLISHMENT.—The Secretary shall develop and administer a
23 national technology deployment program.”.

24 (3) by striking paragraph (7) and inserting the following:

25 “(7) GRANTS, COOPERATIVE AGREEMENTS, AND
26 CONTRACTS.--

27 “(A) IN GENERAL.--Under the program, the Secretary shall make
28 grants to, and enter into cooperative agreements and contracts with States, other
29 Federal agencies, universities and colleges, private sector entities, and nonprofit
30 organizations to pay the Federal share of the cost of research, development, and
31 technology transfer concerning innovative materials

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

7 (4) by striking paragraph (8);

8 (5) by redesignating paragraph (9) as paragraph (10); and

9 (6) by inserting after paragraph (7) the following:

10 “(8) TECHNOLOGY AND INFORMATION TRANSFER.--The
11 Secretary shall ensure that the information and technology resulting from research
12 conducted under paragraph (3) is made available to State and local transportation
13 departments and other interested parties as specified by the Secretary.

14 “(9) FEDERAL SHARE.--The Federal share of the cost of a project under
15 this section shall be determined by the Secretary.”.

16 (b) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT
17 PROGRAM.— Section 503 of title 23, United States Code, is amended by adding
18 after subsection (b) the following:

19 “(c) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT
20 PROGRAM.—

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

24 “(2) GOALS.--The goals of the innovative pavement research and
25 deployment program shall include--

26 “(A) the deployment of new, cost-effective innovative designs,
27 materials, and practices to extend pavement life and performance and to
28 improve customer satisfaction;

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

1 “(C) the deployment of accelerated construction techniques to
2 increase safety and reduce construction time and traffic disruption and
3 congestion;

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

7 “(E) the deployment of new nondestructive and real time
8 pavement evaluation technologies and techniques;

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

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

16 “(H) the development of designs and materials to reduce storm
17 water runoff.”.

18 (c) SAFETY INNOVATION DEPLOYMENT PROGRAM.--Section 503
19 of title 23, United States Code, as amended by this Act, is further amended by
20 adding the following:

21 “(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.--

22 “(1) IN GENERAL.--The Secretary shall establish and implement
23 a program to demonstrate the application of innovative technologies in
24 highway safety.

25 “(2) GOALS.--The goals of the program shall include--

26 “(A) the deployment and evaluation of safety
27 technologies and innovations at state and local levels; and

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

30 “(3) GRANTS, COOPERATIVE AGREEMENTS, AND
31 CONTRACTS.--

1 “(A) IN GENERAL.--Under the program, the Secretary
2 shall make grants to, and enter into cooperative agreements and
3 contracts with States, other Federal agencies, universities and
4 colleges, private sector entities, and nonprofit organizations for
5 research, development, and technology transfer for innovative
6 safety technologies.

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

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

19 “(5) FEDERAL SHARE.--The Federal share of the cost of a
20 project under this section shall be determined by the Secretary.”.

21 **SEC. 5205. TRAINING AND EDUCATION.**

22 (a) NATIONAL HIGHWAY INSTITUTE.—Section 504(a) of title 23,
23 United States Code, is amended by striking paragraph (3) and inserting the
24 following:

25 “(3) COURSES.—The Institute may develop and administer courses
26 in modern developments, techniques, methods, regulations, management, and
27 procedures in areas including surface transportation, environmental
28 stewardship and streamlining, acquisition of rights-of-way, relocation
29 assistance, engineering, safety, transportation system management and
30 operations, construction, maintenance, contract administration, inspection, and
31 highway finance.”.

1 (b) FEDERAL SHARE.—Section 504(b) of title 23, United States Code, is
2 amended by adding at the end the following:

3 “(3) FEDERAL SHARE.—

4 “(A) GRANTS.—The grant funds authorized to carry out this
5 subsection may be used to cover up to 50 percent of the program costs
6 relating to local technical assistance. Funds available for technology
7 transfer and training purposes under this title and title 49 may be used
8 to cover the remaining 50 percent of the program costs.

9 “(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The
10 Federal share of the cost of activities carried out by the tribal technical
11 assistance centers under paragraph (b)(2)(D)(ii) of this subsection shall
12 be 100 percent.”.

13 (c) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT,
14 TRAINING, AND EDUCATION.—Section 504 of title 23, United States Code,
15 is amended by adding at the end the following:

16 “(d) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT,
17 TRAINING, AND EDUCATION.—

18 “(1) FUNDING.—Subject to project approval by the Secretary, a
19 State may obligate funds apportioned to it under sections 104(b)(1), (3),
20 and (4) and 144(e) of this title for surface transportation workforce
21 development, training and education, including:

22 “(A) tuition and direct educational expenses, excluding
23 salaries, in connection with the education and training of employees
24 of State and local transportation agencies;

25 “(B) employee professional development;

26 “(C) student internships;

27 “(D) university or community college support; or

28 “(E) education outreach activities to develop interest and
29 promote participation in surface transportation careers.

1 “(2) FEDERAL SHARE.--The Federal share of the cost of
2 activities carried out in accordance with this subsection shall be 100
3 percent.”.

4 (d) DEFINITIONS AND DECLARATION OF POLICY.—Section 101(a)
5 of title 23, United States Code, as amended by this Act, is further amended--

6 (1) in paragraph (3), by--

7 (A) striking "and" after subparagraph (H);

8 (B) striking the period after subparagraph (I) and inserting
9 "; and"; and

10 (C) adding after subparagraph (I) the following:

11 “(J) surface transportation workforce development, training, and
12 education.”;

13 (2) by redesignating paragraphs (36) through (39), as redesignated
14 by this Act, as paragraphs (37) through (40) respectively; and

15 (3) by adding after paragraph (35), as redesignated by this Act, the
16 following:

17 “(36) SURFACE TRANSPORTATION WORKFORCE
18 DEVELOPMENT, TRAINING, AND EDUCATION.—The term “surface
19 transportation workforce development, training, and education” means
20 activities associated with surface transportation career awareness, student
21 transportation career preparation, and training and professional
22 development for surface transportation workers.”.

23 **SEC. 5206. ADVANCED TRAVEL FORECASTING PROCEDURES**
24 **PROGRAM.**

25 (a) CONTINUATION AND ACCELERATION OF TRANSIMS
26 DEPLOYMENT.— The Secretary shall accelerate the deployment of the advanced
27 transportation model known as the Transportation Analysis Simulation System
28 (“TRANSIMS”), developed by the Los Alamos National Laboratory. The
29 program shall assist State departments of transportation and metropolitan
30 planning organizations in the implementation of TRANSIMS, develop methods
31 for TRANSIMS applications to transportation planning and air quality analysis,

1 and provide training and technical assistance for the implementation of
2 TRANSIMS. The program may support the development of methods to plan for
3 the transportation response to chemical and biological terrorism and other security
4 concerns.

5
6 (b) ELIGIBLE ACTIVITIES. – The Secretary shall use funds made
7 available under section 5101(a)(1) of this Act to-

8 (1) Provide funding to State departments of transportation and
9 metropolitan planning organizations serving transportation management
10 areas designated under the metropolitan planning section of chapter 52 of
11 title 49, United States Code, representing a diversity of populations,
12 geographic regions and analytic needs to implement TRANSIMS;

13 (2) Develop methods to demonstrate a wide spectrum of
14 TRANSIMS applications to support metropolitan and statewide
15 transportation planning, including integrating highway and transit
16 operational considerations into the transportation planning process; and

17 (3) Provide training and technical assistance with respect to the
18 implementation and application of TRANSIMS to States, local
19 governments and Metropolitan Planning Organizations with responsibility
20 for travel modeling.

21 (c) ALLOCATION OF FUNDS.–Not more than 75 percent of the funds
22 made available to carry out this section may be allocated to activities described in
23 subsection (b)(1).

24
25 **Subtitle C--Multimodal Research Programs; Scholarship Opportunities**

26
27 **SEC. 5301. UNIVERSITY TRANSPORTATION RESEARCH.**

28 Section 5505 of title 49, United States Code, is revised to read as follows:

29 **"Sec. 5505. University transportation research**

30 "(a) UNIVERSITY-INDUSTRY-GOVERNMENT PARTNERSHIPS.--

31 The Secretary of Transportation shall make grants to nonprofit institutions of

1 higher learning to address transportation management and research and
2 development matters, with special attention to increasing the number of highly
3 skilled individuals entering the field of transportation.

4 "(b) OBJECTIVES. -- (1) Each university receiving a grant under this
5 section shall conduct the following programs and activities:

6 "(A) Basic and applied research that supports the Department's
7 transportation research agenda, the products of which are judged by peers
8 or other experts in the field to advance the body of knowledge in
9 transportation.

10 "(B) An education program that includes multidisciplinary course
11 work, faculty and student participation in research, and an opportunity for
12 practical experience.

13 "(C) An ongoing program of technology transfer that makes the
14 results of research and education activities broadly available to potential
15 users in a form that can be implemented, utilized, or otherwise applied.

16 "(2) Each university shall elect as its primary objective either subsection
17 (b)(1)(A) or (b)(1)(B) of this section and shall direct at least 50% of total costs to
18 the accomplishment thereof.

19 "(c) SELECTION OF GRANT RECIPIENTS. -- (1) In order to be eligible
20 to receive a grant under this section, a nonprofit institution of higher learning shall
21 submit to the Secretary an application that is in such form and contains such
22 information as the Secretary may require.

23 "(2) The Secretary shall select each recipient of a grant under this section
24 through a competitive process in which applications are evaluated on the basis of
25 the following:

26 "(A) The demonstrated research and extension resources available
27 to the applicant to carry out this section.

28 "(B) The capability of the applicant to provide leadership in
29 making national and regional contributions to the solution of immediate
30 and long-range transportation problems.

1 "(C) The applicant's demonstrated commitment of at least
2 \$200,000 in regularly-budgeted institutional amounts each year to support
3 ongoing transportation research and education programs.

4 "(D) The amount of matching funds for which the applicant has
5 obtained binding commitments.

6 "(E) Evidence of the applicant's research and education
7 partnerships with at least one private sector partner and at least one non-
8 federal government partner.

9 "(F) The applicant's demonstrated ability to disseminate results of
10 transportation research and education programs through national and
11 statewide or regionwide continuing education and capacity-building
12 programs.

13 "(G) The strategic plan the applicant proposes to achieve the
14 objectives of the grant and--

15 "(i) if the applicant's primary objective is subsection
16 (b)(1)(A) of this section, the strategic plan shall include a research
17 plan that addresses more than one mode of transportation; or

18 "(ii) if the applicant's primary objective is subsection
19 (b)(1)(B) of this section, the strategic plan shall include an
20 education plan that addresses multimodal issues.

21 "(d) MAINTENANCE OF EFFORT.-- In order to be eligible to receive a
22 grant under this section, a recipient shall enter into an agreement with the
23 Secretary to ensure that the recipient will maintain total expenditures from all
24 other sources to carry out the objectives of a grant at a level at least equal to the
25 average level of such expenditures in its 2 fiscal years prior to award of a grant
26 under this section.

27 "(e) FEDERAL SHARE. -- The Federal share of the costs of activities
28 carried out using a grant made under this section shall not exceed 50 percent of
29 costs. The non-Federal share may include funds provided to a recipient under
30 section 503, or 104(i) of title 23, United States Code.

1 "(f) PROGRAM ADMINISTRATION.--(1) The Secretary shall conduct
2 all grant management and administration functions necessary to facilitate the
3 research, education, training, and technology transfer activities that grant
4 recipients carry out under this section; to coordinate these activities among the
5 grant recipients; to ensure that the results of the research, education, training and
6 technology transfer activities are widely disseminated; and to ensure the effective
7 use of program resources.

8 "(2) At least annually and consistent with the plan developed under section
9 508 of title 23, United States Code, the Secretary shall review and evaluate
10 programs the grant recipients carry out.

11 "(3) The Secretary may not use more than 1 percent of amounts made
12 available from Government sources to carry out this subsection.

13 "(g) USE OF TRANSPORTATION RESEARCH INFORMATION
14 SERVICES (TRIS) DATABASES.--(1) Recipients of awards under this section
15 shall make use of the National Research Council (NRC), Transportation Research
16 Board (TRB), Transportation Research Information Services (TRIS) online
17 databases for the following purposes:

18 “(A) Program development and strategic planning.

19 “(B) Reporting of active R&T activities undertaken with funding
20 provided here.

21 “(C) Input and dissemination of results and reports from
22 completed research.

23 "(2) Recipients shall recommend a representative to serve as liaison to the
24 Transportation Research Board.

25 "(h) LIMITATION ON AVAILABILITY OF FUNDS. -- Funds made
26 available to carry out this program shall remain available for obligation for a
27 period of 2 years after the last day of the fiscal year for which such funds are
28 authorized."

29 **SEC. 5302. MULTIMODAL RESEARCH PROGRAM.**

30 (a) IN GENERAL.--Section 5506 of title 49, United States Code, is revised to
31 read as follows:

1 **"§ 5506. Multimodal research program**

2 "(a) PURPOSE.--The Secretary shall establish a program to encourage and
3 promote the research, development, demonstration and testing of technologies
4 that have multimodal transportation applications, and shall foster adoption of
5 those technologies in transportation through demonstration and testing to remove
6 impediments to an efficient, safe, and cost-effective national transportation
7 system.

8 "(b) OTHER RESEARCH ACTIVITIES.--To ensure the activities
9 performed pursuant to this section achieve the maximum benefit, the Secretary,
10 the Secretary of Energy, the Administrator of the Environmental Protection
11 Agency, and other relevant Federal agencies shall coordinate their research,
12 development and demonstration activities related to heavy-duty vehicle
13 technologies and hydrogen transportation and refueling infrastructure. Nothing in
14 this section may be construed to authorize the Secretary to conduct research,
15 development, demonstration or testing activities that the Secretary of Energy or
16 the Administrator the Environmental Protection Agency is authorized to conduct,
17 or to modify the authorities of the Secretary of Energy or the Administrator of the
18 Environmental Protection Agency.

19 "(c) ADVANCED HEAVY-DUTY VEHICLE TECHNOLOGIES.-- (1)
20 The Secretary of Transportation shall conduct research, development,
21 demonstration and testing to integrate emerging multimodal heavy-duty vehicle
22 technologies in order to provide seamless, safe, secure and efficient
23 transportation.

24 "(2) There is authorized to be appropriated from the Highway Trust Fund
25 (other than the Mass Transit Account) to carry out this paragraph \$24,000,000 for
26 fiscal year 2005, \$25,000,000 for fiscal year 2006, \$23,000,000 for fiscal year
27 2007, \$18,000,000 for fiscal year 2008, and \$10,000,000 for fiscal year 2009.

28 "(3) The funding made available under paragraph(2) of this subsection
29 shall be available for obligation in the same manner as if such funds were
30 apportioned under chapter 1 of title 23 and shall be subject to any obligation

1 limitation imposed on funds for Federal-aid highways and highway safety
2 construction programs.

3 "(d) HYDROGEN INFRASTRUCTURE SAFETY RESEARCH AND
4 DEVELOPMENT.--(1) The Secretary of Transportation is authorized to conduct
5 research, development, demonstration and testing on the safety aspects of
6 hydrogen transportation and refueling infrastructure necessary to support the use
7 of next generation vehicle technologies.

8 "(2) To carry out this subsection, there is authorized to be appropriated
9 \$1,000,000 for fiscal years 2004 , \$15,000,000 for fiscal year 2005, \$13,000,000
10 for fiscal year 2006, \$11,000,000 for fiscal year 2007, \$9,000,000 for fiscal year
11 2008, and \$6,000,000 for fiscal year 2009.

12 "(e) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER
13 TRANSACTIONS.-- The Secretary may enter into grants, cooperative
14 agreements, and other transactions with Federal and other public agencies
15 (including State and local governments) and private organizations and other
16 persons to carry out this section.

17 "(f) COST SHARING.--At least 50 percent of the funding for projects
18 authorized in this section must be provided by non-Federal sources."

19 (b) CONFORMING AMENDMENT.—The analysis of chapter 55 of title
20 49, United States Code, is amended by substituting the following for the item
21 designated 5506:

22 "Sec. 5506. Multimodal research program."

23 **SEC. 5303. COMMERCIAL REMOTE SENSING PRODUCTS.**

24 Section 5113 of the Transportation Equity Act of the 21st Century (23
25 U.S.C. 502 note) is amended by revising subsection (b) to read as follows:

26 "(b) PROGRAM.--

27 "(1) NATIONAL POLICY.-- The Secretary shall establish and maintain a
28 national policy for the use of commercial remote sensing products and spatial
29 information technologies in national transportation infrastructure development
30 and construction.

1 "(2) POLICY IMPLEMENTATION. -- The Secretary shall develop new
2 applications of commercial remote sensing products and spatial information
3 technologies for the implementation of the national policy established and
4 maintained under (b)(1) of this section."

5 **SEC. 5304. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES**
6 **PROGRAM.**

7 (a) IN GENERAL.--(1) The Secretary may establish and implement a
8 scholarship program for the purpose of attracting qualified students for
9 transportation-related critical jobs.

10 (2) The Secretary may accomplish this objective by developing a program
11 in partnership with appropriate non-governmental institutions.

12 (b) PARTICIPATION AND FUNDING.--An operating administration of
13 the Department of Transportation and the Office of Inspector General of the
14 Department of Transportation (DOT) may participate in the scholarship program.
15 Notwithstanding any other law, the Secretary may use funds available to an
16 operating administration or from the Office of Inspector General for the purpose
17 of carrying out this provision.

18
19 **Subtitle D-- Transportation Data and Analysis**

20
21 **SEC. 5401. BUREAU OF TRANSPORTATION STATISTICS.**

22 Section 111 of title 49, United States Code, is amended by deleting
23 subsections (b) through (k) and inserting the following new subsections, as
24 follows:

25 "(b) DIRECTOR.--(1) The Bureau shall be headed by a Director, who
26 shall be appointed by the President, by and with the advice and consent of the
27 Senate.

28 "(2) The Director shall be appointed from among individuals who are
29 qualified to serve by virtue of their training and experience in the collection,
30 analysis and use of transportation data.

31 "(3) The Director shall report directly to the Secretary of Transportation.

1 "(4) The term of the Director shall be 4 years. The Director may continue
2 to serve after the expiration of the term until a successor is appointed and
3 confirmed.

4 "(c) RESPONSIBILITIES.--The Director of the Bureau shall serve as the
5 Secretary's senior advisor on data and statistics and be responsible for carrying
6 out the following duties:

7 "(1) Collecting, analyzing and disseminating data concerning the
8 domestic and international movement of freight.

9 "(2) Collecting, analyzing and disseminating data concerning
10 travel patterns for local and long-distance travel, at the local, State,
11 national and international levels.

12 "(3) Developing, analyzing and disseminating information on the
13 economics of transportation.

14 "(4) Building and disseminating the transportation layer of the
15 National Spatial Data Infrastructure, including coordinating the
16 development of transportation geospatial data standards, compiling
17 intermodal geospatial data, and collecting geospatial data that is not being
18 collected by others.

19 "(5) Developing, publishing and disseminating a comprehensive
20 set of measures of investment, use, costs, performance and impacts of the
21 national transportation system, including publishing an annual
22 transportation statistics abstract; and identifying information needs and
23 reviewing such needs at least annually with the Advisory Council on
24 Transportation Statistics.

25 "(6) Conducting or supporting research relating to methods of
26 gathering or analyzing transportation statistics and issuing guidelines for
27 the collection of information by the Department in order to ensure that
28 such information is accurate, relevant, comparable, accessible and in a
29 form that permits systematic analysis.

30 "(d) COORDINATING COLLECTION OF INFORMATION.—The
31 Director shall work with the operating administrations of the Department to

1 establish and implement the Bureau's data programs and to improve the
2 coordination of information collection efforts with other Federal agencies.

3 "(e) SUPPORTING TRANSPORTATION DECISIONMAKING.— The
4 Director shall ensure that the statistics compiled under this section are relevant for
5 transportation policy, planning, and decision making by the Federal Government,
6 State and local governments, transportation-related associations, private
7 businesses, and the public. The Director shall provide, to the Department's other
8 operating administrations, technical assistance on collecting, compiling,
9 analyzing and verifying transportation data and statistics and the design of
10 surveys.

11 "(f) RESEARCH AND DEVELOPMENT GRANTS.— (1) The Secretary
12 may make grants to, or enter into cooperative agreements or contracts with, public
13 and nonprofit private entities (including State transportation departments,
14 metropolitan planning organizations, and institutions of higher education) if the
15 grants--

16 "(A) provide for an alternative means of accomplishing program-
17 related research;

18 "(B) contribute to research and development of new methods of
19 data collection; or

20 "(C) improve the methods for sharing geographic data.

21 "(2) Not more than \$500,000 of the amounts made available to carry out
22 this section in a fiscal year may be used for Research and Development Grants.

23 "(g) TRANSPORTATION STATISTICS ANNUAL REPORT.--By
24 March 31 of each year, the Director shall transmit to the President and Congress a
25 report that includes information on the subjects covered by subsection (c) of this
26 section, documentation of the methods used to obtain the information and ensure
27 the quality of the statistics presented in the report, and recommendations for
28 improving transportation statistical information.

29 "(h) PROCEEDS OF DATA PRODUCT SALES.--Notwithstanding
30 section 3302 of title 31, United States Code, funds received by the Bureau from
31 the sale of data products, for necessary expenses incurred, may be credited to the

1 Highway Trust Fund (other than the Mass Transit Account) for the purpose of
2 reimbursing the Bureau for the expenses.

3 "(i) LIMITATIONS ON STATUTORY CONSTRUCTION. - Nothing in
4 this section shall be construed to--

5 "(1) authorize the Bureau to require any other department or
6 agency to collect data; or

7 "(2) reduce the authority of any other officer of the Department of
8 Transportation to collect and disseminate data independently.

9 "(j) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA
10 COLLECTION.--Whoever, being the owner, official, agent, person in charge, or
11 assistant to the person in charge, of any corporation, company, business,
12 institution, establishment, or organization of any nature whatsoever, neglects or
13 refuses, when requested by the Director or other authorized officer, employee or
14 contractor of the Bureau, to answer completely and correctly to the best of his/her
15 knowledge all questions relating to the corporation, company, business,
16 institution, establishment, or other organization, or to records or statistics in
17 his/her official custody, contained in a data collection request prepared and
18 submitted under the authority of subsection (c)(1), shall be fined not more than
19 \$500; and if the individual willfully gives a false answer to a question, shall be
20 fined not more than \$10,000.

21 "(k) PROHIBITION ON CERTAIN DISCLOSURES.--(1) An officer,
22 employee or contractor of the Bureau may not--

23 "(A) make any disclosure in which the data provided by an
24 individual or organization under subsection (c) can be identified;

25 "(B) use the information provided under subsection (c) for a
26 nonstatistical purpose; or

27 "(C) permit anyone other than an individual authorized by the
28 Director to examine any individual report provided under subsection (c).

29 "(2)(A) No department, bureau, agency, officer, or employee of the United
30 States (except the Director in carrying out this section) may require, for any

1 reason, a copy of any report that has been filed under subsection (c) with the
2 Bureau or retained by an individual respondent.

3 "(B) A copy of a report described in subparagraph (A) that has been retained
4 by an individual respondent or filed with the Bureau or any of its employees,
5 contractors, or agents--

6 "(i) shall be immune from legal process; and

7 "(ii) shall not, without the consent of the individual concerned, be
8 admitted as evidence or used for any purpose in any action, suit, or other
9 judicial or
10 administrative proceeding.

11 "(C) This subsection shall apply only to reports that permit information
12 concerning an individual or organization to be reasonably inferred by direct or
13 indirect means.

14 "(3) In a case in which the Bureau is authorized by statute to collect data
15 or information for a nonstatistical purpose, the Director shall clearly distinguish
16 the collection of the data or information, by rule and on the collection instrument,
17 so as to inform a respondent that is requested or required to supply the data or
18 information of the nonstatistical purpose.

19 (l) DATA ACCESS.--The Director shall have access to transportation and
20 transportation-related information in the possession of any Federal agency except
21 information--

22 "(1) the disclosure of which to another Federal agency is expressly
23 prohibited by law; or

24 "(2) the disclosure of which the agency so requested determines
25 would significantly impair the discharge of authorities and responsibilities
26 which have been delegated to, or vested by law, in such agency.

27 "(m) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.--

28 (1) The Bureau of Transportation Statistics has an Advisory Council on
29 Transportation Statistics.

30 "(2) It shall be the function of the advisory council established under this
31 subsection to advise the Director of the Bureau of Transportation Statistics on

1 transportation statistics and analyses, including whether or not the statistics and
2 analysis disseminated by the Bureau of Transportation Statistics are of high
3 quality and are based upon the best available objective information.

4 "(3) The advisory council established under this subsection shall be
5 composed of not more than 6 members appointed by the Director who are not
6 officers or employees of the United States and who have expertise in
7 transportation data collection or analysis or application (except for 1 member who
8 shall have expertise in economics and 1 member who shall have expertise in
9 statistics).

10 "(4) The Federal Advisory Committee Act (5 App. U.S.C.) shall apply to
11 the advisory council established under this section, except that section 14 of the
12 Federal Advisory Committee Act shall not apply to the Advisory Committee
13 established under this section.

14 **Subtitle E--Intelligent Transportation Systems Research**

15 **SEC. 5501. SHORT TITLE.**

16
17 This subtitle may be cited as the "Intelligent Transportation Systems Act of
18 2003".

19 **SEC. 5502. GOALS AND PURPOSES.**

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

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

27 (2) Achievement of national transportation safety goals, including the
28 enhancement of safe operation of motor vehicles and nonmotorized vehicles
29 as well as improved emergency response to a crash, with particular emphasis
30 on decreasing the number and severity of collisions;
31

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

4 (4) Accommodation of the needs of all users of surface transportation
5 systems, including operators of commercial vehicles, passenger vehicles, and
6 motorcycles, including individuals with disabilities; and

7 (5) Improvement of the Nation's ability to respond to security related
8 or other man made emergencies and natural disasters and enhancement of
9 national defense mobility.

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

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

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

18 (3) Improve regional cooperation and operations planning for
19 effective intelligent transportation system deployment;

20 (4) Promote the innovative use of private resources;

21 (5) Facilitate, in cooperation with the motor vehicle industry, the
22 introduction of a vehicle-based safety enhancing systems;

23 (6) Support the application of intelligent transportation systems
24 that increase the safety and efficiency of commercial vehicle operations;
25 and

26 (7) Develop a workforce capable of developing, operating, and
27 maintaining intelligent transportation systems.

28 **SEC. 5503. GENERAL AUTHORITIES AND REQUIREMENTS.**

29 (a) SCOPE.--Subject to the provisions of this subtitle, the Secretary shall
30 conduct an ongoing intelligent transportation system program to research,
31 develop, and operationally test intelligent transportation systems and advance

1 nationwide deployment of such systems as a component of the surface
2 transportation systems of the United States.

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

6 (c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND
7 EDUCATIONAL ENTITIES.--The Secretary shall carry out the intelligent
8 transportation system program in cooperation with State and local governments
9 and other public entities, the United States private sector, the Federal laboratories,
10 and colleges and universities, including historically black colleges and
11 universities and other minority institutions of higher education.

12 (d) CONSULTATION WITH FEDERAL OFFICIALS.--In carrying out the
13 intelligent transportation system program, the Secretary, as appropriate, shall
14 consult with the Secretary of Commerce, the Secretary of the Treasury, the
15 Administrator of the Environmental Protection Agency, the Secretary of
16 Homeland Security, the Director of the National Science Foundation, and the
17 heads of other Federal departments and agencies.

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

22 (f) TRANSPORTATION PLANNING.--The Secretary may provide funding
23 to support adequate consideration of transportation systems management and
24 operations, including intelligent transportation systems, within metropolitan and
25 statewide transportation planning processes.

26 (g) INFORMATION CLEARINGHOUSE.--

27 (1) IN GENERAL.--The Secretary shall--

28 (A) Maintain a repository for technical and safety data collected as
29 a result of federally sponsored projects carried out under this subtitle; and

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

4 (2) AGREEMENT.--

5 (A) IN GENERAL.--The Secretary may enter into an agreement with
6 a third party for the maintenance of the repository for technical and safety data
7 under paragraph (1)(A) of this subsection.

8 (B) FEDERAL FINANCIAL ASSISTANCE.--If the Secretary delegates
9 the responsibility, the entity to which the responsibility is delegated shall be
10 eligible for Federal financial assistance under this section.

11 (h) ADVISORY COMMITTEES.--

12 (1) IN GENERAL.--In carrying out this subtitle, the Secretary may use
13 one or more advisory committees.

14 (2) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.--

15 Any advisory committee so used shall be subject to the Federal Advisory
16 Committee Act (5 U.S.C. App.).

17 (i) EVALUATIONS.--

18 (1) GUIDELINES AND REQUIREMENTS.--

19 (A) IN GENERAL.--The Secretary shall issue guidelines and
20 requirements for the evaluation of operational tests and deployment projects
21 carried out under this subtitle.

22 (B) OBJECTIVITY AND INDEPENDENCE.--The guidelines and
23 requirements issued under subparagraph (A) shall include provisions to ensure the
24 objectivity and independence of the evaluator so as to avoid any real or apparent
25 conflict of interest or potential influence on the outcome by parties to any such
26 test or deployment project or by any other formal evaluation carried out under
27 this subtitle.

28 (C) FUNDING.--The guidelines and requirements issued under
29 subparagraph (A) shall establish evaluation funding levels based on the size and
30 scope of each test or project that ensure adequate evaluation of the results of the
31 test or project.

1 (2) SPECIAL RULE.--Any survey, questionnaire, or interview that the
2 Secretary considers necessary to carry out the evaluation of any test, deployment
3 project, or program assessment activity under this subtitle shall not be subject to
4 chapter 35 of title 44.

5 (j) USE OF RIGHTS-OF-WAY.--Intelligent transportation system projects
6 specified in sections 5117(b)(3) and 5117(b)(6) of the Transportation Equity Act
7 for the 21st Century and involving privately owned intelligent transportation
8 system components that are carried out using funds made available from the
9 Highway Trust Fund shall not be subject to any law or regulation of a State or
10 political subdivision of a State prohibiting or regulating commercial activities in
11 the rights-of-way of a highway for which Federal-aid highway funds have been
12 utilized for planning, design, construction, or maintenance, if the Secretary of
13 Transportation determines that such use is in the public interest. Nothing in this
14 subsection shall affect the authority of a State or political subdivision of a State to
15 regulate highway safety.

16 **SEC. 5504. NATIONAL ARCHITECTURE AND STANDARDS.**

17 (a) IN GENERAL.--

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

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

29 (3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.--In
30 carrying out this section, the Secretary may use the services of such standards
31 development organizations as the Secretary determines to be appropriate.

1 (b) PROVISIONAL STANDARDS.--

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

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

12 (c) CONFORMITY WITH NATIONAL ARCHITECTURE.--

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

19 (2) SECRETARY'S DISCRETION.--The Secretary may authorize
20 exceptions to paragraph (1) for--

21 (A) Projects designed to achieve specific research objectives
22 outlined in the National ITS Program Plan or the Surface Transportation
23 Research and Development Strategic Plan developed under section 508 of
24 title 23, United States Code; or

25 (B) The upgrade or expansion of an intelligent transportation
26 system in existence on the date of enactment of this subtitle, if the
27 Secretary determines that the upgrade or expansion--

28 (i) Would not adversely affect the goals or purposes of this
29 subtitle;

30 (ii) Is carried out before the end of the useful life of such
31 system; and

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

3 (3) EXCEPTIONS.--Paragraph (1) shall not apply to funds used for operation
4 or maintenance of an intelligent transportation system in existence on the date of
5 enactment of this subtitle.

6 **SEC. 5505. RESEARCH AND DEVELOPMENT.**

7 (a) IN GENERAL.--The Secretary shall carry out a comprehensive program of
8 intelligent transportation system research, development, and operational tests of
9 intelligent vehicles and intelligent infrastructure systems, and other similar
10 activities that are necessary to carry out this subtitle.

11 (b) PRIORITY AREAS.--Under the program, the Secretary shall give higher
12 priority to funding projects that--

13 (1) Enhance mobility and productivity through improved traffic
14 management, incident management, transit management, freight management,
15 road weather management, toll collection, traveler information, or highway
16 operations systems;

17 (2) Enhance safety through improved crash-avoidance and protection,
18 crash and other notification, commercial vehicle operations, and
19 infrastructure-based or cooperative safety systems;

20 (3) Enhance security through improved response to security related
21 emergencies, and improved transportation security systems; and

22 (4) Facilitate the integration of intelligent infrastructure, vehicle, and
23 control technologies.

24 (c) FEDERAL SHARE.--The Federal share of the cost of operational tests
25 and demonstrations under subsection (a) shall not exceed 80 percent.

26 **SEC. 5506. USE OF FUNDS.**

27 (a) OUTREACH AND PUBLIC RELATIONS LIMITATION.--

28 (1) IN GENERAL.--For each fiscal year, not more than \$5,000,000 of the
29 funds made available to carry out this subtitle shall be used for intelligent
30 transportation system outreach, public relations, displays, scholarships, tours, and
31 brochures.

1 (2) APPLICABILITY.--Paragraph (1) shall not apply to intelligent
2 transportation system training or the publication or distribution of research
3 findings, technical guidance, or similar documents.

4 (b) INFRASTRUCTURE DEVELOPMENT.--Funds made available to
5 carry out this subtitle for operational tests--

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

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

12 **SEC. 5507. DEFINITIONS.**

13 In this subtitle, the following definitions apply:

14 (1) INCIDENT.-- In this section, the term “incident” means a
15 crash, a natural disaster, work zone activity, special event, or other
16 emergency road user occurrence that adversely affects or impedes the
17 normal flow of traffic.

18 (2) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.-
19 -The term “intelligent transportation infrastructure” means fully
20 integrated public sector intelligent transportation system components, as
21 defined by the Secretary.

22 (3) INTELLIGENT TRANSPORTATION SYSTEM.--The term
23 “intelligent transportation system” means electronics, communications,
24 or information processing used singly or in combination to improve the
25 efficiency or safety of a surface transportation system.

26 (4) NATIONAL ARCHITECTURE.--The term “national
27 architecture” means the common framework for interoperability that
28 defines--

29 (A) The functions associated with intelligent transportation
30 system user services;

1 (B) The physical entities or subsystems within which the
2 functions reside;

3 (C) The data interfaces and information flows between
4 physical subsystems; and

5 (D) the communications requirements associated with the
6 information flows.

7 (5) PROJECT.--The term "project" means a undertaking to
8 research, develop, or operationally test intelligent transportation systems
9 or any other undertaking eligible for assistance under this subtitle.

10 (6) STANDARD.--The term "standard" means a document that--

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

16 (B) May support the national architecture and promote--

17 (i) The widespread use and adoption of intelligent
18 transportation system technology as a component of the
19 surface transportation systems of the United States; and

20 (ii) Interoperability among intelligent transportation
21 system technologies implemented throughout the States.

22 (7) STATE.--The term "State" has the meaning given the term
23 under section 101 of title 23, United States Code.

24 (8) TRANSPORTATION SYSTEMS MANAGEMENT AND
25 OPERATIONS.--The term "transportation systems management and
26 operations" has the meaning given the term under section 101(a) of title
27 23, United States Code, as amended by section 1701 of this Act.

28 **SEC. 5508. REPEAL.**

29 The Transportation Equity Act for the 21st Century is amended by striking
30 subtitle C of title V.

31

1 “(b) The provisions of sections 5203-5204 of this chapter shall be jointly
2 administered by the Federal Highway and Federal Transit Administrators.

3 **“§ 5202. Definitions**

4 “(a) Unless otherwise specified in subsection (b), the definitions in section
5 101(a) of title 23 and section 5302 of this title are applicable to this chapter.

6 “(b) As used in this chapter--

7 “(1) CONSULTATION.— The term “consultation” means that one
8 party confers with another identified party in accordance with an
9 established process and, prior to taking action(s), considers that party's
10 views and periodically informs that party about action(s) taken.

11 “(2) METROPOLITAN PLANNING AREA.—The term
12 “metropolitan planning area” means the geographic area determined by
13 agreement between the metropolitan planning organization and the
14 Governor as defined in section 5203(c) of this title.

15 “(3) METROPOLITAN PLANNING ORGANIZATION
16 (MPO).—The term “metropolitan planning organization” means the
17 Policy Board of the organization created as a result of the designation
18 process defined in section 5203(b) of this title.

19 “(4) NON-METROPOLITAN AREA.--The term "non-
20 metropolitan area" means the geographic area outside designated
21 metropolitan planning areas.

22 “(5) NON-METROPOLITAN LOCAL OFFICIAL.--The term
23 “non-metropolitan local official” means elected and appointed officials of
24 general purpose local government, in non-metropolitan areas, with
25 jurisdiction/responsibility for transportation.

26 “(6) URBANIZED AREA.--The term “urbanized area” means a
27 geographic area with a population of 50,000 or more, as designated by the
28 Bureau of the Census.

29 “(7) STATE.--The term “State” means a State of the United States,
30 the District of Columbia, and Puerto Rico.

31 **§ 5203. Metropolitan transportation planning**

1 “(a) GENERAL REQUIREMENTS.—

2 “(1) DEVELOPMENT OF PLANS.—To accomplish the
3 objectives stated in section 5201, metropolitan planning organizations
4 designated under subsection (b) of this section, in cooperation with the
5 State and public transportation operators, shall develop transportation
6 plans for metropolitan planning areas of the State.

7 “(2) CONTENTS.—The plans for each metropolitan area shall
8 provide for the development and integrated management and operation of
9 transportation systems and facilities (including pedestrian walkways and
10 bicycle transportation facilities) that will function as an intermodal
11 transportation system for the metropolitan planning area and as an integral
12 part of an intermodal transportation system for the State and the United
13 States.

14 “(3) PROCESS OF DEVELOPMENT.—The process for
15 developing the plans shall provide for consideration of all modes of
16 transportation and shall be continuing, cooperative, and comprehensive to
17 the degree appropriate, based on the complexity of the transportation
18 problems to be addressed.

19 “(4) PLANNING AND PROJECT DEVELOPMENT. – The
20 metropolitan planning organization, the State Department of
21 Transportation, and the appropriate public transportation provider shall
22 agree upon the approaches that will be used to evaluate alternatives and
23 identify transportation improvements that address the most complex
24 problems and pressing transportation needs in the metropolitan area.

25 “(b) DESIGNATION OF METROPOLITAN PLANNING
26 ORGANIZATIONS.--

27 “(1) IN GENERAL.—To carry out the transportation planning
28 process required by this section, a metropolitan planning organization
29 (MPO) shall be designated for each urbanized area with a population of
30 more than 50,000 individuals—

1 “(A) by agreement between the Governor and units of
2 general purpose local government that together represent at least
3 75 percent of the affected population (including the largest
4 incorporated city (based on population) as named by the Bureau of
5 the Census); or

6 “(B) in accordance with procedures established by
7 applicable State or local law.

8 “(2) STRUCTURE.—Each metropolitan planning organization
9 that serves an area identified as a transportation management area,
10 when designated or redesignated under this subsection, shall
11 consist of—

12 “(A) local elected officials;

13 “(B) officials of public agencies that administer or operate
14 major modes of transportation in the metropolitan area; and

15 “(C) appropriate State officials.

16 “(3) LIMITATION ON STATUTORY CONSTRUCTION.—

17 Nothing in this subsection shall be construed to interfere with the
18 authority, under any State law in effect on December 18, 1991, of a public
19 agency with multimodal transportation responsibilities to—

20 “(A) develop plans and programs for adoption by a
21 metropolitan planning organization; and

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

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

29 “(5) REDESIGNATION PROCEDURES.—A metropolitan
30 planning organization may be redesignated by agreement between the
31 Governor and units of general purpose local government that together

1 represent at least 75 percent of the existing planning area population
2 (including the largest incorporated city (based on population) as named by
3 the Bureau of the Census) as appropriate to carry out this section.

4 “(6) DESIGNATION OF MORE THAN 1 METROPOLITAN
5 PLANNING ORGANIZATION.—More than 1 metropolitan planning
6 organization may be designated within an existing metropolitan planning
7 area only if the Governor and the existing metropolitan planning
8 organization determine that the size and complexity of the existing
9 metropolitan planning area make designation of more than 1 metropolitan
10 planning organization for the area appropriate.

11 “(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

12 “(1) IN GENERAL.—For the purposes of this section, the
13 boundaries of a metropolitan planning area shall be determined by
14 agreement between the metropolitan planning organization and the
15 Governor.

16 “(2) INCLUDED AREA.—Each metropolitan planning area—

17 “(A) shall encompass at least the existing urbanized area
18 and the contiguous area expected to become urbanized within a 20-
19 year forecast period for the transportation plan; and

20 “(B) may encompass the entire metropolitan statistical area
21 or consolidated metropolitan statistical area, as defined by the
22 Office of Management and Budget.

23 “(3) IDENTIFICATION OF NEW URBANIZED AREAS
24 WITHIN EXISTING PLANNING AREA BOUNDARIES.--The
25 designation by the Bureau of the Census of new urbanized areas within an
26 existing metropolitan planning area shall not require the redesignation of
27 the existing metropolitan planning organization.

28 “(4) EXISTING METROPOLITAN PLANNING AREAS IN
29 NONATTAINMENT.--Notwithstanding paragraph (2), in the case of an
30 urbanized area designated as a nonattainment area for ozone or carbon
31 monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the

1 boundaries of the metropolitan planning area in existence as of the date of
2 enactment of this paragraph shall be retained, except that the boundaries
3 may be adjusted by agreement of the Governor and affected metropolitan
4 planning organizations in the manner described in subsection (c)(5).

5 “(5) NEW METROPOLITAN PLANNING AREAS IN
6 NONATTAINMENT.--In the case of an urbanized area designated after
7 the date of enactment of this paragraph in a nonattainment area for ozone
8 or carbon monoxide, the boundaries of the metropolitan planning area—

9 “(A) shall be established in the manner described in
10 subsection (b)(1);

11 “(B) shall encompass the areas described in paragraph
12 (c)(2)(A);

13 “(C) may encompass the areas described in paragraph
14 (c)(2)(B); and

15 “(D) may address any nonattainment identified under the
16 Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon
17 monoxide.

18 “(d) COORDINATION IN MULTISTATE AREAS.—

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

23 “(2) INTERSTATE COMPACTS.—The consent of Congress is
24 granted to any 2 or more States—

25 “(A) to enter into agreements or compacts, not in conflict
26 with any law of the United States, for cooperative efforts and
27 mutual assistance in support of activities authorized under this
28 section as the activities pertain to interstate areas and localities
29 within the States; and

1 “(B) to establish such agencies, joint or otherwise, as the
2 States may determine desirable for making the agreements and
3 compacts effective.

4 “(3) LAKE TAHOE REGION.—

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

10 “(B) TRANSPORTATION PLANNING PROCESS.—The
11 Secretary shall—

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

15 “(ii) coordinate the transportation planning process
16 with the planning process required of State and local
17 governments under this section and section 5204. .

18 “(C) INTERSTATE COMPACT.—

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

1 “(ii) INVOLVEMENT OF FEDERAL LAND
2 MANAGEMENT AGENCIES.—

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

9 “(II) FUNDING.—In addition to funds
10 made available to the metropolitan planning
11 organization under other provisions of title 23 and
12 under chapter 53 of this title, not more than 1
13 percent of the funds allocated under section 202 of
14 title 23 may be used to carry out the transportation
15 planning process for the Lake Tahoe region under
16 this subparagraph.

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

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

23 “(ii) may, in accordance with chapter 2 of title 23,
24 be funded using funds allocated under section 202 of title
25 23.

26 “(e) COORDINATION OF MPOS.—

27 “(1) NONATTAINMENT AREAS.—If more than 1 metropolitan
28 planning organization has authority within a metropolitan area or an area
29 which is designated as a nonattainment area for ozone or carbon monoxide
30 under the Clean Air Act, each metropolitan planning organization shall
31 consult with the other metropolitan planning organizations designated for

1 such area and the State in the coordination of plans required by this
2 section.

3 “(2) TRANSPORTATION IMPROVEMENTS LOCATED IN
4 MULTIPLE MPOS.—If a transportation improvement, funded from the
5 highway trust fund, is located within the boundaries of more than 1
6 metropolitan planning area, the metropolitan planning organizations shall
7 coordinate plans regarding the transportation improvement.

8 “(3) INTERREGIONAL AND INTERSTATE PROJECT
9 IMPACTS.--Planning for NHS, commuter rail projects or other projects
10 with substantial impacts outside a single metropolitan planning area or
11 State shall be coordinated directly with the affected, contiguous MPOs and
12 States.

13 “(4) COORDINATION WITH OTHER PLANNING
14 PROCESSES.--The Secretary shall encourage each MPO to coordinate its
15 planning process, to the maximum extent practicable, with those officials
16 responsible for other types of planning activities that are affected by
17 transportation, including State and local planned growth, economic
18 development, environmental protection, airport operations, and freight.
19 The metropolitan planning process shall develop transportation plans with
20 due consideration of, and in coordination with, other related planning
21 activities within the metropolitan area. This should include the design and
22 delivery of transportation services within the metropolitan area that are
23 provided by:

24 “(A) recipients of assistance under chapter 53 of this title;

25 “(B) governmental agencies and nonprofit organizations
26 (including representatives of the agencies and organizations) that
27 receive Federal assistance from a source other than the Department
28 of Transportation to provide non-emergency transportation
29 services; and

30 “(C) recipients of assistance under section 204 of title 23.

31 “(f) SCOPE OF PLANNING PROCESS.—

1 “(1) IN GENERAL.— The goals and objectives developed through
2 the metropolitan planning process for a metropolitan planning area under
3 this section shall address the following factors as they relate to the
4 performance of the metropolitan area transportation systems to:

5 “(A) support the economic vitality of the metropolitan area,
6 especially by enabling global competitiveness, productivity, and
7 efficiency, including through services provided by public and
8 private operators;

9 “(B) increase the safety of the transportation system for
10 motorized and nonmotorized users;

11 “(C) increase the security of the transportation system for
12 motorized and nonmotorized users;

13 “(D) increase the accessibility and mobility of people and
14 for freight, including through services provided by public and
15 private operators;

16 “(E) protect and enhance the environment, promote energy
17 conservation, and promote consistency between transportation
18 improvements and State and local planned growth and economic
19 development patterns;

20 “(F) enhance the integration and connectivity of the
21 transportation system, across and between modes, for people and
22 freight, including through services provided by public and private
23 operators;

24 “(G) promote efficient system management and operation;
25 and

26 “(H) emphasize the preservation of the existing
27 transportation
28 system, including services provided by public and private
29 operators.

30 “(2) FAILURE TO CONSIDER FACTORS.—The failure to
31 consider any factor specified in paragraph (1) shall not be reviewable by

1 any court under title 23 or this title, subchapter II of chapter 5 of title 5, or
2 chapter 7 of title 5 in any matter affecting a transportation plan, a
3 transportation improvement plan, a project or strategy, or the certification
4 of a planning process.

5 “(g) DEVELOPMENT OF TRANSPORTATION PLAN.—

6 “(1) IN GENERAL.—Each metropolitan planning organization
7 shall prepare, and update at least every five years a transportation plan for
8 its metropolitan planning area in accordance with the requirements of this
9 subsection.

10 “(2) TRANSPORTATION PLAN.—A transportation plan under
11 this section shall be in a form that the Secretary determines to be
12 appropriate and shall contain, at a minimum, the following:

13 “(A) An identification of transportation facilities (including
14 but not necessarily limited to major roadways, transit, multimodal
15 and intermodal facilities, and intermodal connectors) that should
16 function as an integrated metropolitan transportation system,
17 giving emphasis to those facilities that serve important national
18 and regional transportation functions. In formulating the
19 transportation plan, the metropolitan planning organization shall
20 consider factors described in subsection (f) as such factors relate to
21 a 20 year forecast period.

22 “(B) A financial plan that demonstrates how the adopted
23 transportation plan can be implemented, indicates resources from
24 public and private sources that are reasonably expected to be made
25 available to carry out the plan, and recommends any additional
26 financing strategies for needed projects and programs. The
27 financial plan may include, for illustrative purposes, additional
28 projects that would be included in the adopted transportation plan
29 if reasonable additional resources beyond those identified in the
30 financial plan were available. However, no illustrative project may
31 be advanced without an action of the Secretary. For the purpose of

1 developing the transportation plan, the metropolitan planning
2 organization, transit operator and State shall cooperatively develop
3 estimates of funds that will be available to support plan
4 implementation.

5 “(C) Operational and management strategies to improve the
6 performance of existing transportation facilities to relieve
7 vehicular congestion and maximize the safety and mobility of
8 people and goods.

9 “(D) Capital investment and other strategies to preserve the
10 existing metropolitan transportation infrastructure and provide for
11 multimodal capacity increases based on regional priorities and
12 needs.

13 “(E) Proposed transportation and transit enhancement
14 activities.

15 “(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—

16 In metropolitan areas which are in nonattainment for ozone or carbon
17 monoxide under the Clean Air Act, the metropolitan planning organization
18 shall coordinate the development of transportation plan with the process
19 for development of the transportation control measures of the State
20 implementation plan required by the Clean Air Act.

21 “(4) TRANSPORTATION CONFORMITY.--

22 “(A) For the purposes of Section 7506 of title 42, United
23 States Code, the transportation plan shall be considered to be a
24 transportation plan or a portion of a transportation plan, developed
25 pursuant to this section that extends for the longest of the
26 following periods:

27 “(i) the first 10-year period of any such plan, or

28 “(ii) the latest year in the area’s applicable
29 implementation plan which contains a motor vehicle
30 emissions budget, or

1 “(iii) the completion date of a regionally significant
2 project, if the project requires approval before the
3 subsequent conformity determination.

4 “(B) A regional motor vehicle emissions analysis for the
5 last year of the transportation plan shall be developed for
6 information purposes only, if such year extends beyond the time
7 frame established by subparagraph (A). The results of the analysis
8 shall be provided to involved governors, the Administrator of the
9 Environmental Protection Agency, and the Secretary of the
10 Department of Transportation, and should be considered by air
11 quality and transportation planning agencies in subsequent updates
12 of air quality and transportation plans. The results of this analysis
13 shall be made available to the public.

14 “(5) PARTICIPATION BY INTERESTED PARTIES.—Before
15 the approval of a transportation plan by the Governor and metropolitan
16 planning organization, each metropolitan planning organization shall
17 provide citizens, affected public agencies, representatives of public
18 transportation employees, freight shippers, providers of freight
19 transportation services, private providers of transportation, representatives
20 of users of public transit, representatives of users of pedestrian walkways
21 and bicycle transportation facilities, and other interested parties with a
22 reasonable opportunity to comment on the transportation plan, in a manner
23 that the Secretary deems appropriate.

24 “(6) APPROVAL OF TRANSPORTATION PLAN.—

25 “(A) Each transportation plan prepared by a metropolitan
26 planning organization shall be—

27 “(i) approved by the MPO and

28 “(ii) submitted to the Governor for approval of the
29 first five years of the plan.

30 “(B) The projects listed in the first five years of the plan
31 may be selected for advancement consistent with the project

1 selection requirements. Major amendments (addition, deletion, or
2 concept and scope change of a regionally significant project) to
3 this list would require appropriate public involvement, financial
4 planning, transportation conformity analyses and a finding by the
5 FHWA and FTA that the amended plan was produced in a manner
6 consistent with this section.

7 “(7) INCLUDED PROJECTS. --

8 “(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23
9 AND CHAPTER 53 OF TITLE 49.--A transportation plan
10 developed under this section for a metropolitan area shall include
11 the projects and strategies within the area that are proposed for
12 funding under chapter 1 of title 23 and chapter 53 of title 49.

13 “(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—
14 REGIONALLY SIGNIFICANT PROJECTS.—Regionally
15 significant projects proposed for funding under chapter 2 of title 23
16 shall be identified individually in the metropolitan transportation
17 plan.

18 “(C) OTHER PROJECTS.—Projects proposed for funding
19 under chapter 2 of title 23 that are not determined to be regionally
20 significant shall be grouped in 1 line item or identified individually
21 in the metropolitan transportation plan.

22 “(8) SELECTION OF PROJECTS.—

23 “(A) IN GENERAL.—Except as otherwise provided in
24 subsection (h)(4) the selection of federally funded projects in
25 metropolitan planning areas shall be carried out, from the approved
26 transportation plan—

27 “(i) by—

28 “(I) in the case of projects under chapter 1 of
29 title 23, the State;

1 “(II) in the case of projects under section
2 5307 of this title, the designated transit funding
3 recipients; and

4 (III) in the case of projects under 5308,
5 5310, 5311, and 5317, the State; and

6 “(ii) in cooperation with the metropolitan planning
7 organization.

8 “(B) MODIFICATIONS TO PROJECT PRIORITY.—

9 Notwithstanding any other provision of law, action by the
10 Secretary shall not be required to advance a project from the first
11 five years of the plan included in the approved transportation plan
12 in place of another project in the same five-year period.

13 “(9) PUBLICATION.—

14 “(A) PUBLICATION OF TRANSPORTATION PLAN.—

15 A transportation plan involving federal participation shall be
16 published or otherwise made readily available by the metropolitan
17 planning organization for public review.

18 “(B) PUBLICATION OF ANNUAL LISTINGS OF

19 PROJECTS.—An annual listing of projects, including investments
20 in pedestrian walkways and bicycle transportation facilities, for
21 which Federal funds have been obligated in the preceding five
22 years shall be published or otherwise made available by the
23 cooperative effort of the State, transit operator and the
24 metropolitan planning organization for public review. The listing
25 shall be consistent with the funding categories identified in the first
26 five years of the transportation plan.

27 “(h) TRANSPORTATION MANAGEMENT AREAS.—

28 “(1) REQUIRED IDENTIFICATION.—The Secretary shall
29 identify as a transportation management area each urbanized area (as
30 defined by the Bureau of the Census) with a population of over 200,000
31 individuals.

1 “(2) TRANSPORTATION PLANS.—In a metropolitan planning
2 area serving a transportation management area, transportation plans shall
3 be based on a continuing and comprehensive transportation planning
4 process carried out by the metropolitan planning organization in
5 cooperation with the State and transit operators.

6 “(3) CONGESTION MANAGEMENT SYSTEM.—Within a
7 metropolitan planning area serving a transportation management area, the
8 transportation planning process under this section shall address congestion
9 management through a process that provides for effective management
10 and operation, based on a cooperatively developed and implemented
11 metropolitan-wide strategy, of new and existing transportation facilities
12 eligible for funding under title 23 and chapter 53 of this title through the
13 use of travel demand reduction and operational management strategies.
14 The Secretary shall establish an appropriate phase-in schedule for
15 compliance with the requirements of this section but no sooner than one-
16 year after the identification of a transportation management area.

17 “(4) SELECTION OF PROJECTS.—

18 “(A) IN GENERAL.—All federally funded projects carried
19 out within the boundaries of a metropolitan planning area serving a
20 transportation management area under title 23 (excluding projects
21 carried out on the National Highway System and projects carried
22 out under the bridge program or the Interstate maintenance
23 program) or under chapter 53 of this title shall be selected for
24 implementation from the approved transportation plan by the
25 metropolitan planning organization designated for the area in
26 consultation with the State and any affected public transit operator.

27 “(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—

28 Projects, carried out within the boundaries of a metropolitan
29 planning area serving a transportation management area, on the
30 National Highway System and projects carried out within such
31 boundaries under the bridge program or the Interstate maintenance

1 program under title 23 shall be selected for implementation from
2 the approved transportation plan by the State in cooperation with
3 the metropolitan planning organization designated for the area.

4 “(5) CERTIFICATION.—

5 “(A) IN GENERAL.—The Secretary shall—

6 “(i) ensure that the metropolitan planning process
7 of an MPO serving a transportation management area is
8 being carried out in accordance with applicable provisions
9 of Federal law; and

10 “(ii) subject to subparagraph (B), certify, not less
11 often than once every 5 years that the requirements of this
12 paragraph are met with respect to the metropolitan planning
13 process.

14 “(B) REQUIREMENTS FOR CERTIFICATION.—The
15 Secretary may make the certification under subparagraph (A) if—

16 “(i) the transportation planning process complies
17 with the requirements of this section and other applicable
18 requirements of Federal law; and

19 “(ii) there is a transportation plan for the
20 metropolitan planning area that has been approved by the
21 metropolitan planning organization and the Governor.

22 “(C) EFFECT OF FAILURE TO CERTIFY.—

23 “(i) WITHHOLDING OF PROJECT FUNDS.—If a
24 metropolitan planning process of an metropolitan planning
25 organization serving a TMA is not certified, the Secretary
26 may withhold a portion or all of the funds available to
27 metropolitan planning area of the metropolitan planning
28 organization for projects funded under title 23 and chapter
29 53 of this title.

30 “(ii) RESTORATION OF WITHHELD FUNDS.—

31 The withheld funds shall be restored to the metropolitan

1 planning area at such time as the metropolitan planning
2 process is certified by the Secretary.

3 “(D) REVIEW OF CERTIFICATION.—In making
4 certification determinations under this paragraph, the Secretary
5 shall provide for public involvement appropriate to the
6 metropolitan area under review.

7 “(i) ABBREVIATED PLANS FOR CERTAIN AREAS.—

8 “(1) IN GENERAL.—Subject to paragraph (2), in the case of a
9 metropolitan area not designated as a transportation management area
10 under this section, the Secretary may provide for the development of an
11 abbreviated transportation plan for the metropolitan planning area that the
12 Secretary determines is appropriate to achieve the purposes of this section,
13 taking into account the complexity of transportation problems in the area.

14 “(2) NONATTAINMENT AREAS.—The Secretary may not
15 permit abbreviated plans for a metropolitan area that is in nonattainment
16 for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et
17 seq.).

18 “(j) ADDITIONAL REQUIREMENTS FOR CERTAIN
19 NONATTAINMENT
20 AREAS.—

21 “(1) IN GENERAL.—Notwithstanding any other provisions of
22 title 23 or chapter 53 of this title, for transportation management areas
23 classified as nonattainment for ozone or carbon monoxide pursuant to the
24 Clean Air Act, Federal funds may not be advanced in such area for any
25 highway project that will result in a significant increase in carrying
26 capacity for single-occupant vehicles unless the project is addressed
27 through a congestion management process.

28 “(2) APPLICABILITY.—This subsection applies to a
29 nonattainment area within the metropolitan planning area boundaries
30 determined under subsection (c).

1 “(k) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in
2 this section shall be construed to confer on a metropolitan planning organization
3 the authority to impose legal requirements on any transportation facility, provider,
4 or project not eligible under title 23 or chapter 53 of this title.

5 “(l) FUNDING.—Funds set aside under section 104(f) of title 23 or
6 section 5305(h) of this title shall be available to carry out this section.

7 “(m) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since
8 plans described in this section are subject to a reasonable opportunity for public
9 comment, individual projects included in plans are subject to review under the
10 National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and
11 decisions by the Secretary concerning plans described in this section have not
12 been reviewed under such Act as of January 1, 1997, any decision by the
13 Secretary concerning a plan described in this section shall not be considered to be
14 a Federal action subject to review under the National Environmental Policy Act of
15 1969 (42 U.S.C. 4321 et seq.).

16 “(n) RELATIONSHIP TO THE NEPA PROCESS.—

17 “(1) To expedite the planning and development of transportation
18 improvements in compliance with this section and section 5204 and the
19 National Environmental Policy Act (42 U.S.C. 4321 et seq.), to facilitate
20 compliance with the Clean Water Act (33 U.S.C. 1251 et seq.) and other
21 Federal environmental laws, and to fulfill the directive in section 1308 of
22 the Transportation Equity Act for the 21st Century, Pub. L. 105-206, to
23 integrate the major investment study requirement into the transportation
24 planning and National Environmental Policy Act processes, the Secretary
25 and heads of other Federal agencies shall presume that the results of
26 studies developed as part of the planning process establish the basis for an
27 environmental assessment or impact statement, provided that such studies,
28 pursuant to the provisions of this section:

29 “(A) are consistent with subsection (a)(4) of this section;

30 “(B) provided opportunities for citizens and interested
31 parties to participate during the studies;

1 “(C) included consideration of an appropriate range of
2 alternatives, such as alternative modes, technologies, general
3 alignments, and policies; and

4 “(D) considered the planning factors of subsection (f)(1) .

5 “(2) The results of studies developed as part of the planning
6 process and that are presumed to establish the basis for an environmental
7 assessment or impact statement, as described in subsection (1) of this
8 section, include, but are not limited to:

9 “(A) the purpose and need;

10 “(B) the alternatives selected for evaluation in an
11 environmental assessment or impact statement; and

12 “(C) an assessment of environmental impacts related to
13 development growth, including indirect and cumulative effects,
14 that is consistent with local land use, growth management, or
15 development plans.

16 “(3) The results of studies developed during the planning process
17 may be appended to or incorporated by reference in and used to
18 substantiate an environmental assessment or impact statement.

19 **“§ 5204. Statewide transportation planning**

20 “(a) GENERAL REQUIREMENTS.—

21 “(1) DEVELOPMENT OF PLANS AND PROGRAMS.— To
22 accomplish the objectives stated in section 5201, each State shall develop
23 a statewide transportation plan and a statewide Transportation
24 Improvement Program (STIP) for all areas of the State subject to section
25 5203.

26 “(2) CONTENTS.—The statewide transportation plan and the
27 STIP developed for each State shall provide for the development and
28 integrated management and operation of transportation systems and
29 facilities (including pedestrian walkways and bicycle transportation
30 facilities) that will function as an intermodal transportation system for the

1 State and an integral part of an intermodal transportation system for the
2 United States.

3 “(3) PROCESS OF DEVELOPMENT.—The process for
4 developing the statewide plan and the STIP shall provide for consideration
5 of all modes of transportation and the policies stated in section 5201, and
6 shall be continuing, cooperative, and comprehensive to the degree
7 appropriate, based on the complexity of the transportation problems to be
8 addressed.

9 “(b) COORDINATION WITH METROPOLITAN PLANNING; STATE
10 IMPLEMENTATION PLAN.—A State shall—

11 “(1) coordinate planning carried out under this section with the
12 transportation planning activities carried out under section 5203 of this
13 title for metropolitan areas of the State and with other related Statewide
14 planning activities such as trade and economic development and related
15 multi-State planning efforts,

16 “(2) develop the transportation portion of the State implementation
17 plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.), and

18 “(3) participate in the integration of planning and environmental
19 studies pursuant to section 5203(n) of this chapter.

20 “(c) INTERSTATE AGREEMENTS.— The consent of Congress is
21 granted to 2 or more States entering into agreements or compacts, not in conflict
22 with any law of the United States, for cooperative efforts and mutual assistance in
23 support of activities authorized under this section related to interstate areas and
24 localities in the States and establishing authorities the States consider desirable for
25 making the agreements and compacts effective.

26 “(d) SCOPE OF PLANNING PROCESS.—

27 “(1) IN GENERAL.—Each State shall carry out a Statewide
28 transportation planning process that provides for consideration of projects,
29 strategies and implementing projects and services that will—

1 “(A) support the economic vitality of the United States, the
2 States, non-metropolitan areas, and metropolitan areas, especially
3 by enabling global competitiveness, productivity, and efficiency;

4 “(B) increase the safety of the transportation system for
5 motorized and non-motorized users;

6 “(C) increase the security of the transportation system for
7 motorized and nonmotorized users;

8 “(D) increase the accessibility and mobility of people and
9 freight;

10 “(E) protect and enhance the environment, promote energy
11 conservation, promote consistency between transportation
12 improvements and State and local planned growth and economic
13 development patterns, and improve the quality of life;

14 “(F) enhance the integration and connectivity of the
15 transportation system, across and between modes throughout the
16 State, for people and freight;

17 “(G) promote efficient system management and operation;
18 and

19 “(H) emphasize the preservation of the existing
20 transportation system.

21 “(2) FAILURE TO CONSIDER FACTORS.—The failure to
22 consider any factor specified in paragraph (1) of this subsection shall not
23 be reviewable by any court under title 23 or this title, subchapter II of
24 chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a
25 statewide transportation plan, the STIP, a project or strategy, or the
26 certification of a planning process.

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

29 “(1) with respect to non-metropolitan areas, the concerns of
30 affected local officials with responsibility for transportation;

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

4 “(3) coordination of transportation plans, the STIP , and planning
5 activities with related planning activities being carried out outside of
6 metropolitan planning areas and between States;

7 “(f) STATEWIDE TRANSPORTATION PLAN.—

8 “(1) DEVELOPMENT.—Each State shall develop a statewide
9 transportation plan, with a minimum 20-year forecast period, updated at
10 least every five years, for all areas of the State, that provides for the
11 development and implementation of the intermodal transportation system
12 of the State.

13 “(2) CONSULTATION WITH GOVERNMENTS.—

14 “(A) METROPOLITAN AREAS.—The statewide
15 transportation plan shall be developed for each metropolitan area
16 in the State in cooperation with the metropolitan planning
17 organization designated for the metropolitan area under section
18 5203.

19 “(B) NON-METROPOLITAN AREAS.—With respect to
20 non-metropolitan areas, the statewide transportation plan shall be
21 developed in consultation with affected non-metropolitan officials
22 with responsibility for transportation. The Secretary shall not
23 review or approve the consultation process in each State.

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

29 “(3) PARTICIPATION BY INTERESTED PARTIES.—In
30 developing the statewide transportation plan, the State shall—

1 “(A) provide citizens, affected public agencies,
2 representatives of public transportation employees, freight
3 shippers, private providers of transportation, representatives of
4 users of public transportation, representatives of users of
5 pedestrian walkways and bicycle transportation facilities, providers
6 of freight transportation services, and other interested parties with
7 a reasonable opportunity to comment on the proposed plan; and

8 “(B) identify transportation strategies necessary to
9 efficiently serve the mobility needs of people.

10 “(4) FINANCIAL PLAN.—The statewide transportation plan may
11 include a financial plan that demonstrates how the adopted statewide
12 transportation plan can be implemented, indicates resources from public
13 and private sources that are reasonably expected to be made available to
14 carry out the plan, and recommends any additional financing strategies for
15 needed projects and programs. The financial plan may include, for
16 illustrative purposes, additional projects that would be included in the
17 adopted statewide transportation plan if reasonable additional resources
18 beyond those identified in the financial plan were available.

19 “(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE
20 LIST.—A State shall not be required to select any project from the
21 illustrative list of additional projects included in the financial plan
22 described in paragraph (4).

23 “(6) EXISTING SYSTEM.—The statewide transportation plan
24 should include capital, operations and management strategies,
25 investments, procedures, and other measures to ensure the preservation
26 and most efficient use of the existing transportation system.

27 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM
28 (STIP).--

29 “(1) DEVELOPMENT.— Each State shall develop a statewide
30 transportation improvement program for all areas of the State.

31 “(2) CONSULTATION WITH GOVERNMENTS.—

1 “(A) METROPOLITAN AREAS.—With respect to each
2 metropolitan area in the State, the program shall be developed in
3 cooperation with the metropolitan planning organization
4 designated for the metropolitan area under section 5203.

5 “(B) NON-METROPOLITAN AREAS.—With respect to
6 each non-metropolitan area in the State, the program shall be
7 developed in consultation with affected non-metropolitan local
8 officials with responsibility for transportation. The Secretary shall
9 not review or approve the specific consultation process in the
10 State.

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

15 “(3) PARTICIPATION BY INTERESTED PARTIES.—In
16 developing the program, the State shall provide citizens, affected public
17 agencies, representatives of public transportation employees, freight
18 shippers, private providers of transportation, providers of freight
19 transportation services, representatives of users of public transit,
20 representatives of users of pedestrian walkways and bicycle transportation
21 facilities, and other interested parties with a reasonable opportunity to
22 comment on the proposed program.

23 “(4) INCLUDED PROJECTS.—

24 “(A) IN GENERAL.—A transportation improvement
25 program developed under this subsection for a state shall include
26 federally supported surface transportation expenditures within the
27 boundaries of the State. The program shall cover a minimum of
28 five years, identify projects by year, be fiscally constrained by
29 year, and be updated at least every five years. An annual listing of
30 projects for which funds have been obligated in the preceding five
31 years in each metropolitan planning area shall be published or

1 otherwise made available by the cooperative effort of the State,
2 transit operator, and the metropolitan planning organization for
3 public review. Regionally significant projects proposed for
4 funding under chapter 2 of title 23 shall be identified individually
5 in the transportation improvement program. Other projects
6 proposed for funding under chapter 2 of title 23 that are not
7 determined to be regionally significant shall be grouped in 1 line
8 item or identified individually. The listing shall be consistent with
9 the funding categories identified in the first five years of each
10 metropolitan transportation plan.

11 “(B) CONSISTENCY WITH STATEWIDE
12 TRANSPORTATION PLAN.—Each project shall be—

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

15 “(ii) identical to the project or phase of the project
16 as described in each year of the initial five years of an
17 approved metropolitan transportation plan; and

18 “(iii) in conformance with the applicable State air
19 quality implementation plan developed under the Clean Air
20 Act (42 U.S.C. 7401 et seq.), if the project is carried out in
21 an area designated as nonattainment for ozone or carbon
22 monoxide under that Act.

23 “(C) REQUIREMENT OF ANTICIPATED FULL
24 FUNDING.—The STIP shall include a project, or an identified
25 phase of a project, only if full funding can reasonably be
26 anticipated to be available for the project within the time period
27 contemplated for completion of the project.

28 “(D) FINANCIAL PLAN.—The STIP may include a
29 financial plan that demonstrates how the approved STIP can be
30 implemented, indicates resources from public and private sources
31 that are reasonably expected to be made available to carry out the

1 STIP, and recommends any additional financing strategies for
2 needed projects and programs. The financial plan may include, for
3 illustrative purposes, additional projects that would be included in
4 the adopted transportation plan if reasonable additional resources
5 beyond those identified in the financial plan were available.

6 "(E) SELECTION OF PROJECTS FROM
7 ILLUSTRATIVE LIST.--

8 "(i) NO REQUIRED SELECTION.--Notwithstanding
9 subparagraph (D), a State shall not be required to select any project
10 from the illustrative list of additional projects included in the
11 financial plan under subparagraph (D).

12 "(ii) REQUIRED ACTION BY THE
13 SECRETARY.--Action by the Secretary shall be required
14 for a State to select any project from the illustrative list of
15 additional projects included in the financial plan under
16 subparagraph (D) for inclusion in an approved STIP.

17 "(F) PRIORITIES.—The STIP shall reflect the priorities
18 for programming and expenditures of funds, including
19 transportation and transit enhancement activities, required by title
20 23 and chapter 53 of this title, and transportation control measures
21 included in the State’s air quality implementation plan.

22 "(5) PROJECT SELECTION FOR AREAS OF LESS THAN
23 50,000 POPULATION.—Projects carried out in areas with populations of
24 less than 50,000 individuals shall be selected, from the approved STIP
25 (excluding projects carried out on the National Highway System and
26 projects carried out under the bridge program or the Interstate maintenance
27 program under title 23 or sections 5308, 5310, 5311, and 5317 of this
28 title), by the State in cooperation with the affected non-metropolitan local
29 officials with responsibility for transportation. Projects carried out in
30 areas with populations of less than 50,000 individuals on the National
31 Highway System or under the bridge program or the Interstate

1 maintenance program under title 23 or under sections 5308, 5310, 5311,
2 and 5317 of this title shall be selected, from the approved statewide
3 transportation improvement program, by the State in consultation with the
4 affected local officials with responsibility for transportation.

5 “(6) STIP APPROVAL.—A STIP developed under this
6 subsection shall be reviewed and based on a current Planning Finding
7 approved at least every five years by the Secretary.

8 “(7) PLANNING FINDING.—A finding shall be made by the
9 Secretary at least every five years that the transportation planning
10 process(es) through which statewide transportation plans and programs are
11 developed are consistent with this section and section 5203.

12 “(8) MODIFICATIONS TO PROJECT PRIORITY.—
13 Notwithstanding any other provision of law, action by the Secretary shall
14 not be required to advance a project included in the approved STIP in
15 place of another project in the program.

16 “(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23
17 and 5305(h) of this title shall be available to carry out this section.

18 “(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION
19 MANAGEMENT SYSTEMS.—For purposes of this section and section 5203 of
20 this title, State laws, rules or regulations pertaining to congestion management
21 systems or programs may constitute the congestion management system under
22 section 5203(h)(3) if the Secretary finds that the State laws, rules or regulations
23 are consistent with, and fulfill the intent of, the purposes of section 5203, as
24 appropriate.

25 “(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since
26 the statewide transportation plan and the STIP described in this section are subject
27 to a reasonable opportunity for public comment, since individual projects
28 included in the statewide transportation plans and the STIP are subject to review
29 under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),
30 and since decisions by the Secretary concerning statewide transportation plans or
31 the STIP described in this section have not been reviewed under such Act as of

1 January 1, 1997, any decision by the Secretary concerning a metropolitan or
2 statewide transportation plan or the STIP described in this section shall not be
3 considered to be a Federal action subject to review under the National
4 Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

5 “(k) INTEGRATION OF PLANNING AND ENVIRONMENTAL
6 STUDIES.—section 5203(n) of this chapter shall also apply to the planning
7 process established under this section, except that the planning factors to be
8 considered shall be those set forth in subsection (d) of this section.”.

9 (b) CONSISTENCY OF CONFORMITY TIMING WITH THE
10 TRANSPORTATION PLAN.-- Section 7506(c)(4) of title 42, United States
11 Code, is amended--

12 (1) in subparagraph (B)(ii) by striking ", but in no case shall such
13 determinations for transportation plans and programs be less frequent than
14 every three years", and inserting "but the frequency for making conformity
15 determinations for transportation plans must be consistent with
16 subparagraph (E)"; and

17 (2) by inserting after subparagraph (D) the following:

18 “(E) The frequency for making conformity determinations
19 on updated transportation plans shall be every five years, except
20 when:

21 “(i) the metropolitan planning organization chooses
22 to update a transportation plan more frequently, or

23 “(ii) changes to the applicable implementation plan
24 trigger a new conformity determination, as provided in
25 regulations promulgated by the Administrator pursuant to
26 subparagraph (A) above.”.

27 (c) CONFORMING CLARIFICATION.-- Upon date of enactment of this
28 Act, the references to “program” and “improvement program” in section 7506 of
29 title 42, United States Code, shall refer to the transportation plan developed
30 pursuant to section 5203 of title 49, United States Code.

1 (d) STREAMLINED STATE CONFORMITY RULE
2 REQUIREMENTS.--

3 Section 7506(c)(4)(C) of title 42, United States Code, is amended to read as
4 follows:

5 “(C) Such procedures shall also include a requirement that each
6 State shall submit to the Administrator and the Secretary of
7 Transportation, within 24 months of such date of enactment, a revision to
8 its implementation plan that includes criteria and procedures for
9 consultation in accordance with the Administrator’s criteria and
10 procedures for consultation required by subparagraph (B)(i) of this
11 paragraph.”.

12 (e) CONFORMING AMENDMENTS.--(1) The Table of chapters for title
13 49, United States Code, is amended by inserting the following after the item
14 relating to chapter 51:

15 "52. Transportation Planning.....5201".

16 (2) The chapter analysis for Subtitle III of title 49, United States Code, is
17 amended by inserting the following after the item relating to chapter 51:

18 "52. Transportation Planning.....5201".

19 **SEC. 6002. INTERMODAL PASSENGER FACILITIES.**

20 (a) IN GENERAL.—Chapter 55 of title 49, United States Code, is
21 amended by adding the following at the end:

22 **“SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES**

23 **“§ 5571. Policy and purposes**

24 **“(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL**
25 **PASSENGER FACILITIES.—**It is in the economic interest of the United States to
26 improve the efficiency of public surface transportation modes by ensuring their
27 connection with and access to intermodal passenger terminals, thereby streamlining the
28 transfer of passengers among modes, enhancing travel options, and increasing passenger
29 transportation operating efficiencies.

30 **“(b) GENERAL PURPOSES.—**The purposes of this subchapter are to accelerate
31 intermodal integration among North America’s passenger transportation modes through-

1 "(1) assuring intercity public transportation access to intermodal passenger
2 facilities;

3 "(2) encouraging the development of an integrated system of public
4 transportation information; and

5 "(3) providing intercity bus intermodal passenger facility grants.

6 **"§ 5572. Definitions**

7 "“In this Subchapter--

8 "(1) ‘capital project’ means a project for --

9 "(A) acquiring, constructing, improving, or renovating an
10 intermodal facility that is related physically and functionally to intercity
11 bus service and establishes or enhances coordination between intercity bus
12 service and transportation, including aviation, commuter rail, intercity rail,
13 public transportation, seaports, and the National Highway System, such as
14 physical infrastructure associated with private bus operations at existing
15 and new intermodal facilities, including special lanes, curb cuts, ticket
16 kiosks and counters, baggage and package express storage, employee
17 parking, office space, security, and signage; and

18 "(B) establishing or enhancing coordination between intercity bus
19 service and transportation, including aviation, commuter rail, intercity rail,
20 public transportation, and the National Highway System through an
21 integrated system of public transportation information.

22 “(2) ‘commuter service’ means service designed primarily to provide
23 daily work trips within the local commuting area.

24 “(3) ‘intercity bus service’ means regularly scheduled bus service for the
25 general public which operates with limited stops over fixed routes connecting two
26 or more urban areas not in close proximity, which has the capacity for
27 transporting baggage carried by passengers, and which makes meaningful
28 connections with scheduled intercity bus service to more distant points, if such
29 service is available and may include package express service, if incidental to
30 passenger transportation, but does not include air, commuter, water or rail service.

1 “(4) ‘intermodal passenger facility’ means passenger terminal that does, or
2 can be modified to, accommodate several modes of transportation and related
3 facilities, including some or all of the following: intercity rail, intercity bus,
4 commuter rail, intra-city rail transit and bus transportation, airport limousine
5 service and airline ticket offices, rent-a-car facilities, taxis, private parking, and
6 other transportation services.

7 “(5) ‘local governmental authority’ includes—

8 “(A) a political subdivision of a State;

9 “(B) an authority of at least one State or political subdivision of a
10 State;

11 “(C) an Indian tribe; and

12 “(D) a public corporation, board, or commission established under
13 the laws of the State.

14 “(6) ‘owner or operator of a public transportation facility’ means an owner
15 or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-
16 transit, bus-transit, or ferry services.

17 “(7) ‘recipient’ means a State or local governmental authority or a
18 nonprofit organization that receives a grant to carry out this section directly from
19 the Federal government.

20 “(8) ‘Secretary’ means the Secretary of Transportation.

21 “(9) ‘state’ means a State of the United States, the District of Columbia,
22 Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the
23 Virgin Islands.

24 “(10) ‘urban area’ means an area that includes a municipality or other
25 built-up place that the Secretary, after considering local patterns and trends of
26 urban growth, decides is appropriate for a local public transportation system to
27 serve individuals in the locality.

28 **“§ 5573. Assurance of access to intermodal passenger facilities**

29 "Intercity buses and other modes of transportation shall, to the maximum extent
30 practicable, have access to publicly funded intermodal passenger facilities including, but
31 not limited to, those passenger facilities seeking funding under Section 5574.

1 **“§ 5574. Intercity bus intermodal passenger facility grants**

2 “(a) GENERAL AUTHORITY.—The Secretary of Transportation may make
3 grants under this section to recipients in financing a capital project, as defined in section
4 5572 of this chapter, only if the Secretary finds that the proposed project is justified and
5 has adequate financial commitment.

6 “(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a
7 national solicitation for applications for grants under this section. Grantees shall be
8 selected on a competitive basis.

9 “(c) SHARE OF NET PROJECT COSTS.—(1) A grant shall not exceed 50
10 percent of the net project cost, as determined by the Secretary.

11 “(2) The portion of the net costs of an eligible project that is not funded under this
12 section shall be from an undistributed cash surplus, a replacement or depreciation cash
13 fund or reserve, or new capital and may include up to 30 percent from amounts
14 appropriated to or made available to a department or agency of the Federal government
15 that are eligible to be expended for transportation.

16 “(d) REGULATIONS.--The Secretary may issue regulations necessary to carry
17 out this section.

18 **“§ 5575. Funding**

19 “(a) MASS TRANSIT ACCOUNT.--(1) FUNDING.--To carry out this
20 Subchapter, there is authorized to be appropriated for each of fiscal years 2005 through
21 2009 from the Mass Transit Account of the Highway Trust Fund the amounts made
22 available under section 5338(a)(2)(O) of this title.

23 “(2) CONTRACTUAL OBLIGATIONS.--A grant approved by the Secretary of
24 Transportation that is financed with amounts made available under subsection (a) of this
25 section is a contractual obligation of the United States Government to pay the
26 Government's share of the cost of the project.

27 “(b) HIGHWAY ACCOUNT.--(1) There is authorized to be appropriated from
28 the Highway Trust Fund (other than the Mass Transit Account) to carry out this
29 subchapter \$10,000,000 for each of fiscal years 2005 through 2009.

30 “(2) The funding made available under paragraph (1) of this subsection shall be
31 available for obligation in the same manner as if such funds were apportioned under

1 chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for
2 Federal-aid highways and highway safety construction programs.

3 "(c) PERIOD OF AVAILABILITY.--Amounts made available by subsection (a)
4 of this section shall remain available until expended."

5 (b) CONFORMING AMENDMENT.—The table of contents for chapter 55 of
6 title 49, United States Code, is amended by inserting the following at the end:

7 "SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

8 Sec.

9 "5571. Policy and Purposes.

10 "5572. Definitions.

11 "5573. Assurance of access to intermodal facilities.

12 "5574. Intercity bus intermodal facility grants.

13 "5575. Funding."
14

15 **TITLE VII--MISCELLANEOUS**

16
17 **Subtitle A--Railroads**

18
19 **SEC. 7101. RAIL CORRIDOR PLANNING.**

20 Section 26101(b)(1) of Title 49, United States Code, is amended in the
21 first sentence thereof by adding "(1)" after the word "determines" and by adding
22 "or (2) that it is necessary to help promote an effective and efficient system of
23 conventional speed intercity rail passenger operations" after the word
24 "improvements".

25 **SEC. 7102. HIGH SPEED RAIL AUTHORIZATIONS.**

26 Section 26104 of Title 49, United States Code, is revised to read as
27 follows:

28 **"§ 26104. Authorization of appropriations**

29 "(a) There are authorized to be appropriated to the Secretary \$25,000,000
30 each year for fiscal years 2004 through 2009 for carrying out section 26101
31 (including payment of administrative expenses related thereto).

1 "(b) There are authorized to be appropriated to the Secretary \$25,000,000
2 each year for fiscal years 2004 through 2009 for carrying out section 26102
3 (including payment of administrative expenses related thereto)."

4 "(c) Funds made available under this section shall remain available until
5 expended."

6
7 **Subtitle B--Miscellaneous Technical Corrections to Title 49**

8
9 **SEC. 7201. CORRECTION OF OBSOLETE REFERENCES TO**
10 **INTERSTATE COMMERCE COMMISSION.**

11 (a) Except as otherwise provided, a reference in this section to an
12 amendment to, or a repeal of, a section or other provision is deemed to be a
13 reference to a section or other provision of title 49, United States Code.

14 (b) (1) Section 307 (Safety information and intervention in Interstate
15 Commerce Commission proceedings) is repealed.

16 (2) The analysis of chapter 3 is amended by striking the item designated
17 "307".

18 (c) Subsections (d)(1)(C) and (e) of section 333 (Responsibility for rail
19 transportation unification and coordination projects) are amended by striking
20 "Interstate Commerce Commission" and "Commission" each place the words
21 appear and substituting "Surface Transportation Board" and "Board",
22 respectively.

23 (d) Section 10903(b)(2) is amended by striking "24706(c) of this title" and
24 substituting "24706(c) of this title before May 31, 1998".

25 (e) Section 13541(a) is amended by striking "finds that" and all that
26 follows, and substituting--
27 "finds that the exemption is in the public interest and that the application of that
28 provision--

29 "(1) is not necessary to carry out the transportation policy of
30 section 13101; and

1 "(2) is not needed to protect shippers from the abuse of market
2 power or that the transaction or service is of limited scope."

3 (f)(1) Section 14704 (Rights and remedies of persons injured by carriers or
4 brokers) is amended as follows:

5 (A) In subsection (a) --

6 (i) strike "In general.--" and all that follows through
7 "injured" and substitute "Enforcement of order.--A person
8 injured"; and

9 (ii) redesignate paragraph (2) as subsection (b)(2); and

10 (B) In subsection (b), by strike "Liability and damages" and all that
11 follows through "A carrier" and substitute "Liability and damages.--(1) A
12 carrier".

13 (2) Section 14705(c) is amended by striking "14704(b)" and substituting
14 "14704(b)(2)".

15 (g)(1) Subsection (c)(3) of section 24307 (Special transportation) is
16 amended by striking "Interstate Commerce Commission" and substituting
17 "Surface Transportation Board".

18 (2) Section 24308 (Use of facilities and providing services to Amtrak) is
19 amended by striking "Interstate Commerce Commission" and "Commission" each
20 place the words appear and substituting "Surface Transportation Board" and
21 "Board", respectively.

22 (3) Section 24311 (Acquiring interests in property by eminent domain) is
23 amended by striking "Interstate Commerce Commission" and "Commission" each
24 place the words appear and substituting "Surface Transportation Board" and
25 "Board", respectively.

26 (4) Section 24902 (Goals and requirements) is amended by striking
27 "Interstate Commerce Commission" and "Commission" each place the words
28 appear and substituting "Surface Transportation Board" and "Board",
29 respectively.

1 (5) Section 24904 (General authority) is amended by striking "Interstate
2 Commerce Commission" and "Commission" each place the words appear and
3 substituting "Surface Transportation Board" and "Board", respectively.
4

5 **Subtitle C--Hazardous Material Transportation**

6 7 **SEC.7301. DEFINITIONS.**

8 Section 5102 of title 49, United States Code, is amended by revising
9 paragraph (1) to read as follows:

10 "(1) 'commerce' means trade or transportation in the jurisdiction of
11 the United States

12 "(A) between a place in a State and a place outside of the
13 State;

14 "(B) that affects trade or transportation between a place in a
15 State and a place outside of the State; or

16 "(C) on a United States-registered aircraft."

17 **SEC.7302. REPRESENTATIONS AND TAMPERING WITH** 18 **HAZARDOUS MATERIAL PACKAGING.**

19 Section 5103(b)(1) of title 49, United States Code, is amended by revising
20 subparagraph (A) to read as follows:

21 "(A) apply to a person that--

22 "(i) transports a hazardous material in commerce;

23 "(ii) causes a hazardous material to be transported in
24 commerce;

25 "(iii) manufactures, designs, inspects, tests, reconditions,
26 marks, or repairs a packaging or packaging component represented
27 as qualified for use in transporting hazardous material in
28 commerce;

29 "(iv) prepares, accepts, or rejects hazardous material for
30 transportation in commerce;

1 "(v) is responsible for the safety of transporting hazardous
2 material in commerce;

3 "(vi) certifies compliance with any requirement issued
4 under this chapter;

5 "(vii) misrepresents whether it is engaged in any of the
6 above activities; or

7 "(viii) performs any other act or function relating to the
8 transportation in commerce of a hazardous material; and".

9 **SEC. 7303. HAZARDOUS MATERIAL TRANSPORTATION SAFETY**
10 **AND SECURITY.**

11 (a) ENHANCED AUTHORITY TO DISCOVER HIDDEN SHIPMENTS
12 OF HAZARDOUS MATERIAL.--Section 5121 of title 49, United States Code, is
13 amended by revising subsection (c) to read as follows:

14 "(c) INSPECTIONS AND INVESTIGATIONS.--(1) A designated officer
15 or employee of the Secretary may--

16 "(A) inspect and investigate, at a reasonable time and in a
17 reasonable way, records and property related to a function described in
18 section 5103(b)(1) of this chapter;

19 "(B) except for the packaging immediately adjacent to its
20 hazardous material contents, gain access to, open, and examine a package
21 offered for, or in, transportation when the officer or employee has an
22 objectively reasonable and articulable belief that the package may contain
23 a hazardous material;

24 "(C) remove from transportation a package or related packages in a
25 shipment offered for or in transportation, and for which such officer or
26 employee has an objectively reasonable and articulable belief that the
27 package or packages may pose an imminent hazard, and for which the
28 officer or employee contemporaneously documents that belief in
29 accordance with procedures established by the Secretary;

30 "(D) gather information from the offeror, carrier, packaging
31 manufacturer or retester, or other person responsible for the package or

1 packages, to ascertain the nature and hazards of the contents of the
2 package or packages;

3 "(E) as necessary, under terms and conditions specified by the
4 Secretary, order the offeror, carrier, packaging manufacturer or retester, or
5 other person responsible for the package or packages to have the package
6 or packages transported to, opened and the contents examined and
7 analyzed at a facility appropriate for the conduct of this activity; and

8 "(F) when safety might otherwise be compromised, authorize
9 properly qualified personnel to assist in the activities conducted under this
10 subsection.

11 "(2) An officer or employee acting under this subsection shall display
12 proper credentials when requested.

13 "(3) For instances when, as a result of the inspection or investigation, an
14 imminent hazard is not found to exist, the Secretary shall develop procedures to
15 assist in the safe resumption of transportation of the package or transport unit."

16 (b) EMERGENCY AUTHORITY FOR HAZARDOUS MATERIAL
17 TRANSPORTATION.--Section 5121 is amended by striking subsection (e),
18 redesignating subsection (d) as subsection (e), and adding a new subsection (d) to
19 read as follows:

20 "(d) EMERGENCY ORDERS.--(1) If, upon inspection, investigation,
21 testing, or research, the Secretary determines that either a violation of a provision
22 of this chapter or a regulation issued under this chapter, or an unsafe condition or
23 practice, constitutes or is causing an imminent hazard, the Secretary may issue or
24 impose emergency restrictions, prohibitions, recalls, or out-of-service orders,
25 without notice or the opportunity for a hearing, but only to the extent necessary to
26 abate the imminent hazard.

27 "(2) The Secretary's action under paragraph (1) of this subsection shall be
28 in a written order describing the violation, condition or practice that is causing the
29 imminent hazard, and stating the restrictions, prohibitions, recalls, or out-of-
30 service orders issued or imposed. The order also shall describe the standards and
31 procedures for obtaining relief from the emergency order.

1 "(3) After taking action under paragraph (1) of this subsection, the
2 Secretary shall provide an opportunity for review of that action under section 554
3 of title 5, if a petition for review is filed within 20 calendar days after issuance of
4 the order.

5 "(4) If a petition for review is filed and the review is not completed by the
6 end of the 30-day period beginning on the date the petition was filed, the action
7 will cease to be effective at the end of that period unless the Secretary determines
8 in writing that the emergency situation still exists.

9 "(5) For purposes of this subsection, "out-of-service order" means a
10 mandate that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other
11 vehicle, transport unit, transport vehicle, freight container, portable tank, or other
12 package not be moved until specified conditions have been met."

13 (c) SECURITY-SENSITIVE INFORMATION.--Section 5121 is revised
14 by adding a new subsection (f) to read as follows:

15 "(f) SECURITY-SENSITIVE INFORMATION.--(1) If the Secretary
16 determines that particular information may reveal a vulnerability of a hazardous
17 material to attack during transportation in commerce, or may facilitate the
18 diversion of hazardous material during transportation in commerce for use in an
19 attack on people or property, the information may be disclosed only --

20 "(A) to an owner, custodian, offeror or carrier of the hazardous
21 material;

22 "(B) to an officer, employee or agent of a Federal, State, or local
23 government, including a volunteer fire department, concerned with
24 carrying out transportation safety laws, protecting hazardous material
25 during the course of transportation in commerce, protecting public safety,
26 or national security issues, or enforcing federal laws designed to protect
27 public health or the environment; or

28 "(C) in an administrative or judicial proceeding brought under this
29 chapter, under other federal law designed to protect public health or the
30 environment, or one that addresses terrorist actions or threats of such
31 actions.

1 "(2) The Secretary may make a determination under subsection (1) of this
2 section with respect to a category of information by regulation.

3 "(3) A release of information pursuant to a determination under subsection
4 (1) of this section is not a release to the public within the meaning of 5 U.S.C.
5 552."

6 (d) ENHANCEMENTS TO SECURITY RISK ASSESSMENT AND
7 EMERGENCY PREPAREDNESS.-- Section 5121 is amended by inserting the
8 following after subsection (f):

9 "(g) AUTHORITY FOR GRANTS, COOPERATIVE AGREEMENTS,
10 AND OTHER TRANSACTIONS.-- The Secretary may enter into grants,
11 cooperative agreements, and other transactions with a person, agency or
12 instrumentality of the United States, a unit of State or local government, an Indian
13 tribe, a foreign government (in coordination with the Department of State), an
14 educational institution, or other entity to expand the risk assessment and
15 emergency response capability with respect to hazardous materials security issues
16 and to carry out this chapter."

17 (e) CARGO INSPECTION PROGRAM.--The Secretary of Transportation
18 may randomly inspect cargo at U.S. Customs ports of entry in order to determine
19 the extent to which undeclared hazardous material is being offered for
20 transportation in commerce. Under this program, an officer or employee of the
21 Secretary may open and inspect any cargo shipment at a U.S. Customs port of
22 entry if that shipment has been randomly selected for inspection by a Department
23 supervisor who is not on site. The Department of Transportation shall ensure that
24 random inspections under this program are coordinated in advance with the
25 Department of Homeland Security and provide for the effective handling and
26 disposition of any violations found. The Secretary shall initiate such a program
27 within one year after the date of enactment of this Act."

28 **SEC. 7304. ADMINISTRATIVE AUTHORITY FOR TRANSPORTATION**
29 **SERVICE AND INFRASTRUCTURE ASSURANCE RESEARCH.**

30 Section 112 of title 49, United States Code, is amended by adding the
31 following new subsection to the end:

1 "(f) ADMINISTRATIVE AUTHORITY. -- (1) Grants, Cooperative
2 Agreements, and Other Transactions. -- The Administrator may enter into grants,
3 cooperative agreements, and other transactions with Federal or other public
4 agencies (including State and local governments) and private organizations and
5 other persons to conduct research into transportation service and infrastructure
6 assurance and to carry out research activities of the Administration.

7 "(2) Prohibition on Certain Disclosures. -- If the Administrator determines
8 that particular information developed in research sponsored by the Administration
9 may reveal a systemic vulnerability of transportation service or infrastructure, the
10 information may be disclosed only to a person responsible for the security of the
11 transportation service or infrastructure or with protecting public safety or to an
12 officer, employee, or agent of a Federal, State or local government unit whose
13 need for the information in the performance of duties is concurred in by the
14 Administrator. A release of information subject to a determination under this
15 section is not a release to the public within the meaning of 5 U.S.C. 552."

16 **SEC. 7305. POSTAL SERVICE CIVIL PENALTY AUTHORITY.**

17 (a) Section 3001 of title 39, United States Code, is amended by adding a
18 new subsection (o) as follows:

19 "(o)(1) Except as permitted by law and Postal Service regulation,
20 hazardous material is nonmailable.

21 "(2) For purposes of this section, the term 'hazardous material' means a
22 substance or material the Secretary of Transportation designates under section
23 5103(a) of title 49."

24 (b) Chapter 30 of title 39, United States Code, is amended by adding a
25 new section 3018 at the end as follows:

26 **"Sec. 3018. Hazardous material; civil penalty**

27 "(a) REGULATIONS.--The Postal Service shall prescribe regulations for
28 the safe transportation of hazardous material in the mail.

29 "(b) HAZARDOUS MATERIAL IN THE MAIL.--No person may--

30 "(1) mail or cause to be mailed a hazardous material that has been
31 declared by statute or Postal Service regulation to be nonmailable;

1 "(2) mail or cause to be mailed a hazardous material in violation of
2 any statute or Postal Service regulation restricting the time, place, or
3 manner in which a hazardous material may be mailed; or

4 "(3) manufacture, distribute, or sell any container, packaging kit, or
5 similar device that--

6 "(i) is represented, marked, certified, or sold by such person
7 for use in the mailing of a hazardous material; and

8 "(ii) fails to conform with any statute or Postal Service
9 regulation setting forth standards for a container, packaging kit, or
10 similar device used for the mailing of a hazardous material.

11 "(c) CIVIL PENALTY.--

12 "(1) A person that knowingly violates this section or a regulation issued
13 under this section is liable to the Postal Service for a civil penalty of at least \$250
14 but not more than \$100,000 for each violation, and for any clean-up costs and
15 damages. A person acts knowingly when--

16 "(A) the person has actual knowledge of the facts giving rise to the
17 violation; or

18 "(B) a reasonable person acting in the circumstances and
19 exercising reasonable care would have that knowledge.

20 "(2) Knowledge by the person of the existence of a statutory provision, or
21 a regulation or requirement prescribed by the Postal Service is not an element of
22 an offense under this section.

23 "(3) A separate violation occurs for each day a hazardous material, mailed
24 or caused to be mailed in noncompliance with this section or a regulation issued
25 under this section, is in the mail.

26 "(4) A separate violation occurs for each item containing a hazardous
27 material that is mailed or caused to be mailed in noncompliance with this section
28 or a regulation issued under this section.

29 "(d) HEARING REQUIREMENT.--The Postal Service may find that a
30 person has violated this section or a regulation issued under this section only after
31 notice and an opportunity for a hearing. Under this section, the Postal Service

1 shall impose a penalty and recover clean-up costs and damages by giving the
2 person written notice of the amount of the penalty, clean-up costs, and damages.

3 "(e) PENALTY CONSIDERATIONS.--In determining the amount of a
4 civil penalty under this section, the Postal Service shall consider--

5 "(1) the nature, circumstances, extent, and gravity of the violation;

6 "(2) with respect to the person who committed the violation, the
7 degree of culpability, any history of prior violations, the ability to pay, and
8 any effect on the ability to continue in business;

9 "(3) the impact on postal operations; and

10 "(4) other matters that justice requires.

11 "(f) CIVIL ACTIONS TO COLLECT.--(1) In accordance with section
12 409(d) of this title, a civil action may be commenced in an appropriate district
13 court of the United States to collect a civil penalty, clean-up costs, or damages
14 assessed under this section. In such action, the validity, amount, and
15 appropriateness of the civil penalty, clean-up costs, or damages shall not be
16 subject to review.

17 "(2) The Postal Service may compromise the amount of a civil penalty,
18 clean-up costs, or damages assessed under this section before civil action is taken
19 to collect the penalty, costs, or damages.

20 "(g) CIVIL JUDICIAL PENALTIES.--At the request of the Postal
21 Service, the Attorney General may bring a civil action in an appropriate district
22 court of the United States to enforce this chapter or a regulation prescribed or
23 order issued under this chapter. The court may award appropriate relief, including
24 a temporary or permanent injunction, punitive damages, and assessment of civil
25 penalties considering the same penalty amounts and factors as prescribed for the
26 Postal Service in an administrative case under this section.

27 "(h) DEPOSITING AMOUNTS COLLECTED.--Amounts collected under
28 this section shall be paid into the Postal Service Fund established by section 2003
29 of this title."

30 (c) CONFORMING AMENDMENT.--The chapter analysis for chapter 30
31 of title 39, United States Code, is amended by adding the following:

1 "3018. Hazardous material; civil penalty."

2 **SEC. 7306. REGISTRATION.**

3 (a) IN GENERAL.--Section 5108 of title 49, United States Code, is
4 amended--

5 (1) by striking "class A or B explosive" in subsection (a)(1)(B)
6 and inserting "Division 1.1, 1.2, or 1.3 explosive material";

7 (2) by revising subsection (a)(2)(B) to read as follows:

8 "(B) a person manufacturing, designing, inspecting,
9 testing, reconditioning, marking, or repairing a packaging or
10 packaging component represented as qualified for use in
11 transporting a hazardous material in commerce."

12 (b) CLARIFICATION OF TITLE 18 EXEMPTION.--Section 845(a)(1) of
13 title 18, United States Code, is amended to read as follows:

14 "(1) aspects of the transportation of explosive materials via
15 railroad, water, highway, or air that pertain to safety, including
16 security, and are regulated by the Department of Transportation or
17 the Department of Homeland Security;"

18 **SEC. 7307. SHIPPING PAPER RETENTION.**

19 Section 5110 of title 49, United States Code, is amended --

20 (1) in subsection (a), by striking "under subsection (b) of this
21 section" and inserting "by regulation";

22 (2) by striking subsection (b) and redesignating subsections (c)-
23 (e) as subsections (b)-(d); and

24 (3) by revising the first sentence in subsection (d), as
25 redesignated, to read as follows:

26 "The person that provided the shipping paper and the carrier required to keep it
27 under this section shall retain the paper, or an electronic image of it, for a period
28 of 3 years after the shipping paper was provided to the carrier, to be accessible
29 through their respective principal places of business."

30 **SEC. 7308. PLANNING AND TRAINING GRANTS.**

31 (a) Section 5116 of title 49, United States Code, is amended--

1 (1) in the second sentence of subsection (e), by striking “of the
2 State or tribe under subsections (a)(2)(A) and (b)(2)(A)” and inserting
3 “received by the State or tribe under subsections (a)(1) and (b)(1)”;

4 (2) revising subsection (f) to read as follows:

5 “(f) MONITORING AND TECHNICAL ASSISTANCE.--The Secretary of
6 Transportation shall monitor public-sector emergency response planning and
7 training for an accident or incident involving hazardous material. Considering the
8 results of the monitoring, the Secretary shall provide technical assistance to a
9 State, political subdivision of a State, or Indian tribe for carrying out emergency
10 response training and planning for an accident or incident involving hazardous
11 material and shall coordinate the assistance using the existing coordinating
12 mechanisms of the National Response Team and, for radioactive material, the
13 Federal Radiological Preparedness Coordinating Committee.”;

14 (3) in subsection (g), by striking “Government grant” and
15 inserting “Federal financial assistance”;

16 (4) by revising subsection (i) to read as follows:

17 “(i) EMERGENCY PREPAREDNESS FUND.--The Secretary of the Treasury
18 shall establish an Emergency Preparedness Fund account in the Treasury into
19 which the Secretary of the Treasury shall deposit amounts the Secretary of
20 Transportation transfers to the Secretary of the Treasury under section
21 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account
22 are available--

23 “(1) to make grants under this section;

24 “(2) to monitor and provide technical assistance under subsection (f) of
25 this section;

26 “(3) to publish and distribute the Emergency Response Guidebook;

27 “(4) to pay administrative costs of carrying out this section and
28 sections 5108(g)(2) and 5115 of this title, except that not more than 10
29 percent of the amounts made available from the account in a fiscal year to
30 carry out these sections may be used to pay those costs.”; and

31 (5) by striking subsection (k).

1 (b) Chapter 51 is amended by--

2 (1) revising the section heading for section 5116 to read “Planning and
3 training grants; emergency preparedness fund”; and

4 (2) striking the item for section 5116 in the analysis of the chapter and
5 inserting “5116. Planning and training grants; emergency preparedness
6 fund.”.

7 **SEC. 7309. ENFORCEMENT.**

8 Section 5122 of title 49, United States Code, is amended--

9 (1) in subsection (a), by revising the last sentence to read as follows:

10 “The court may award appropriate relief, including a temporary or permanent
11 injunction, punitive damages, and assessment of civil penalties considering the
12 same penalty amounts and factors as prescribed for the Secretary in an
13 administrative case under section 5123 of this chapter.”; and

14 (2) in subparagraph (b)(1)(B), by striking “or ameliorate the”
15 and inserting “or mitigate the”.

16 **SEC. 7310. PENALTIES.**

17 (a) Section 5123 of title 49, United States Code, is amended--

18 (1) by revising subsection (a) to read as follows:

19 “(a) PENALTY.--(1) A person that knowingly violates this chapter, or a
20 regulation, order, special permit, or approval issued under this chapter, is liable to
21 the United States Government for a civil penalty of at least \$250 but not more
22 than \$100,000 for each violation.

23 “(2) Knowledge by the person of the existence of a statutory provision, or a
24 regulation or requirement prescribed by the Secretary is not an element of an
25 offense under this section.

26 “(3) A separate violation occurs for each day the violation, committed by a
27 person that transports or causes to be transported hazardous material, continues”;
28 and

29 (2) by redesignating subsections (b)-(g) as subsections (c)-(h)
30 and inserting a new subsection (b) to read as follows:

1 “(b) KNOWING VIOLATIONS.--In this section, a person acts knowingly
2 when--

3 “(1) the person has actual knowledge of the facts giving rise to the
4 violation; or

5 “(2) a reasonable person acting in the circumstances and exercising
6 reasonable care would have that knowledge.”;

7 (3) in subsection (c), as redesignated, by striking the first
8 sentence and inserting the following:

9 “The Secretary of Transportation may find that a person has violated this chapter,
10 or a regulation, order, special permit or approval issued under this chapter, only
11 after notice and an opportunity for a hearing.”

12 (4) by revising subsection (e), as redesignated, to read as
13 follows:

14 “(e) CIVIL ACTIONS TO COLLECT.--The Attorney General may bring a
15 civil action in an appropriate district court of the United States to collect a civil
16 penalty under this section and any accrued interest on that penalty calculated in
17 the manner described under section 2705 of title 33. In such action, the validity,
18 amount, and appropriateness of the civil penalty shall not be subject to review.”.

19 (b) Section 5124 is revised to read as follows:

20 **"Sec. 5124. Criminal penalty**

21 “(a) GENERAL.--A person knowingly violating section 5104(b) of this title
22 or willfully or recklessly violating this chapter or a regulation, order, special
23 permit, or approval issued under this chapter, shall be fined under title 18,
24 imprisoned for not more than 5 years, or both.

25 “(b) AGGRAVATED VIOLATIONS.--A person knowingly violating section
26 5104(b) of this chapter, or willfully or recklessly violating this chapter or a
27 regulation, order, special permit, or approval issued under this chapter, and
28 thereby causing the release of a hazardous material, shall be fined under title 18,
29 imprisoned for not more than 20 years, or both.

30 “(c) KNOWING VIOLATIONS.--In this section, a person acts knowingly
31 when--

1 “(1) the person has actual knowledge of the facts giving rise to the
2 violation; or

3 “(2) a reasonable person acting in the circumstances and exercising
4 reasonable care would have that knowledge.

5 “(d) WILLFUL VIOLATIONS.--In this section, a person acts willfully
6 when—

7 “(1) the person has knowledge of the facts giving rise to the violation;
8 and

9 “(2) the person has knowledge that the conduct was unlawful.

10 “(e) RECKLESS VIOLATIONS.—In this section, a person acts recklessly
11 when the person displays a deliberate indifference or conscious disregard for the
12 consequences of that person’s conduct.

13 “(f) KNOWLEDGE OF REQUIREMENTS.-- Knowledge by a person of the
14 existence of a statutory provision, or a regulation or requirement prescribed by the
15 Secretary, is not an element of an offense under this section.

16 “(g) SEPARATE VIOLATIONS.—A separate violation occurs for each day
17 the violation, committed by a person who transports hazardous material or who
18 causes hazardous material to be transported, continues.”.

19 (c) Section 46312 is amended--

20 (1) in subparagraph (a), by striking “under this part” and
21 inserting “under this part or under chapter 51 of this title”;

22 (2) in subparagraph (b), by striking “by the Secretary” and
23 inserting “by the Secretary under this part or under chapter 51 of this
24 title”.

25 (d) Section 3663, title 18 United States Code, is amended in
26 subparagraph (a)(1)(A) by striking “or section 46312, 46502, or 46504 of
27 title 49” and inserting “or section 5124, 46312, 46502, or 46504 of title
28 49”.

29 **SEC. 7311. EMERGENCY WAIVER OF PREEMPTION.**

30 Section 5125 of title 49, United States Code, is amended by adding
31 new subsections (h), (i), and (j) to read as follows:

1 “(h) EMERGENCY WAIVER OF PREEMPTION.-- (1) The Secretary,
2 upon a finding of good cause, may waive preemption on an expedited basis
3 without notice and public procedure. Good cause exists when there is a possible
4 threat that hazardous material being transported in commerce may be used in an
5 attack on people or property, and notice and public procedure are impracticable or
6 contrary to the public interest.

7 “(2) An emergency waiver of preemption shall remain in effect for no
8 more than 6 months unless, prior to its expiration, the Secretary determines that a
9 possible threat that hazardous material being transported in commerce may be
10 used in an attack on people or property continues to exist.

11 “(3) An action of the Secretary under paragraphs (1) and (2) of this
12 subsection shall be in writing and shall describe the standards and procedures for
13 seeking reconsideration of the Secretary’s action.

14 “(4) After taking action under paragraphs (1) or (2) of this subsection, the
15 Secretary shall provide an opportunity for review of that action if a petition for
16 reconsideration is filed within 20 calendar days after the Secretary issues or
17 extends an emergency waiver.

18 “(5) If a petition for reconsideration is filed and the review is not
19 completed by the end of the 30-day period beginning on the date the petition was
20 filed, the emergency waiver will cease to be effective at the end of that period
21 unless the Secretary determines, in writing, that a possible threat that hazardous
22 material being transported in commerce may be used in an attack on people or
23 property continues to exist.”.

24 “(i) INDEPENDENT APPLICATION OF EACH STANDARD.--Each
25 preemption standard in subsections (b), (c)(1), (d), and (e) of this section and in
26 section 5119(b) of this chapter is independent in its application to a requirement
27 of any State, political subdivision of a State, or Indian tribe.

28 “(j) NONFEDERAL ENFORCEMENT STANDARDS.--This section
29 does not apply to procedure, penalty, or required mental state or other standard
30 used by a State, political subdivision of a State, or Indian tribe to enforce a
31 requirement applicable to transportation of a hazardous material.”.

1 **SEC. 7312. JUDICIAL REVIEW.**

2 Chapter 51 of title 49, United States Code, is amended by redesignating
3 section 5127 as section 5128, and by inserting after section 5126 the following
4 new section:

5 **"Sec. 5127. Judicial review**

6 “(a) FILING AND VENUE.--Except as provided in section 20114(c) of this
7 title, a person suffering legal wrong or adversely affected or aggrieved by a final
8 action of the Secretary of Transportation under this chapter may petition for
9 review of the final action in the United States Court of Appeals for the District of
10 Columbia or in the court of appeals for the United States for the circuit in which
11 the person resides or has its principal place of business. The petition must be filed
12 not more than 60 days after the Secretary’s action becomes final.

13 “(b) JUDICIAL PROCEDURES.--When a petition is filed under subsection
14 (a) of this section, the clerk of the court immediately shall send a copy of the
15 petition to the Secretary. The Secretary shall file with the court a record of any
16 proceeding in which the final action was issued, as provided in section 2112 of
17 title 28.

18 “(c) AUTHORITY OF COURT.--The court has exclusive jurisdiction, as
19 provided in the Administrative Procedure Act, 5 U.S.C. 551 et seq., to affirm or
20 set aside any part of the Secretary’s final action and may order the Secretary to
21 conduct further proceedings. Findings of fact by the Secretary, if supported by
22 substantial evidence, are conclusive.

23 “(d) REQUIREMENT FOR PRIOR OBJECTION.--In reviewing a final
24 action under this section, the court may consider an objection to a final action of
25 the Secretary only if the objection was made in the course of a proceeding or
26 review conducted by the Secretary or if there was a reasonable ground for not
27 making the objection in the proceeding.”;

28 (b) CONFORMING AMENDMENT.--The chapter analysis for chapter 51
29 is amended by striking the item related to section 5127 and inserting the
30 following:

31 "5127. Judicial review.

1 "5128. Authorization of appropriations.”.

2
3 **Subtitle D--Sanitary Food Transportation**

4
5 **SEC. 7401. SHORT TITLE.**

6 This Subtitle may be cited as the "Sanitary Food Transportation Act of
7 2003."

8 **SEC. 7402. RESPONSIBILITIES OF THE SECRETARY OF HEALTH**
9 **AND HUMAN SERVICES.**

10 (a) Unsanitary Transport Deemed Adulteration.--Section 402 of the
11 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at
12 the end the following new subsection:

13 "(i) If it is transported under conditions that are not in compliance with the
14 sanitary transportation practices prescribed by the Secretary under section 416.”

15 (b) Sanitary Transportation Requirements.-- Chapter IV of the Federal
16 Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at
17 the end the following new section:

18 **"Sec. 416. Sanitary transportation of food**

19 "(a) SANITARY TRANSPORTATION PRACTICES.-- The Secretary
20 shall establish by regulation sanitary transportation practices which shippers,
21 carriers, receivers, and other persons engaged in the transportation of food shall
22 be required to follow to ensure that the food is not transported under conditions
23 that may render it adulterated, including such practices as the Secretary may find
24 appropriate relating to--

25 "(1) sanitation;

26 "(2) packaging, isolation, and other protective measures;

27 "(3) limitations on the use of vehicles;

28 "(4) information to be disclosed--

29 "(A) to a carrier by a person arranging for the transport of
30 food, and

1 "(B) to a manufacturer or other persons arranging for the
2 transport of food by a carrier or other person furnishing a tank or
3 bulk vehicle for the transport of food; and

4 "(5) recordkeeping.

5 "(b) LIST OF UNACCEPTABLE NONFOOD PRODUCTS.--The
6 Secretary, by publication in the Federal Register, may establish and periodically
7 amend—

8 "(1) a list of nonfood products that the Secretary determines may, if
9 shipped in a tank or bulk vehicle, render adulterated food transported
10 subsequently in such vehicle; and

11 "(2) a list of nonfood products that the Secretary determines may, if
12 shipped in a motor or rail vehicle (other than a tank or bulk vehicle), render
13 adulterated food transported simultaneously or subsequently in such vehicle.

14 "(c) WAIVER AUTHORITY.--(1) In General.--The Secretary may waive
15 all or part of this section, or any requirement under this section, with respect to
16 any class of persons, of vehicles, of food, or of nonfood products, if the Secretary
17 determines that such waiver—

18 "(A) will not result in the transportation of food under conditions
19 that would be unsafe for human or animal health; and

20 "(B) will not be contrary to the public interest or this Act.

21 "(2) Publication.--The Secretary shall publish in the Federal Register any
22 waiver and the reasons for the waiver.

23 "(d) PREEMPTION.--(1) In General.--No State or political subdivision of
24 a State may directly or indirectly establish or continue in effect, as to any food in
25 interstate commerce, any authority or requirement concerning that transportation
26 of food that is not identical to the requirement of this section.

27 "(2) Effective Date.--The provisions of this subsection apply only with
28 respect to transportation occurring on or after the effective date of regulations
29 prescribed under subsection (a).

30 "(e) ASSISTANCE OF OTHER AGENCIES.--The Secretary of
31 Transportation, the Secretary of Agriculture, the Administrator of the

1 Environmental Protection Agency, and the heads of other Federal agencies, as
2 appropriate, shall provide assistance upon request, to the extent resources are
3 available, to the Secretary of Health and Human Services for the purposes of
4 carrying out this section.

5 (f) DEFINITIONS. For purposes of the section—

6 (1) The term 'transportation' means any movement of property in
7 commerce by motor vehicle or rail vehicle.

8 (2) The term 'tank or bulk vehicle' includes any vehicle in which
9 food is shipped in bulk and in which the food comes directly into contact
10 with the vehicle, including tank trucks, hopper trucks, rail tank cars,
11 hopper cars, cargo tanks, portable tanks, freight containers, or hopper
12 bins.”

13 (c) Inspection of Transportation Records.-- (1) Requirement.--Chapter VII
14 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended
15 by inserting after section 703 the following new section:

16 **"Sec. 703A. Food transportation records**

17 "Shippers, carriers by motor vehicle or rail vehicle, and other persons
18 subject to section 416 shall, upon request of an officer or employee duly
19 designated by the Secretary, permit such officer or employee, at reasonable times,
20 to have access to and to copy all records that the Secretary requires them to make
21 or retain under section 416(a)(5) of this Act."

22 (2) Conforming Amendment.--Section 703 of the Act (21 U.S.C. 373) is
23 amended by striking "in the usual course of business as carriers." and inserting "in
24 the usual course of business as carriers, unless otherwise explicitly provided."

25 (d) Prohibited Acts.--(1) Records Inspection.--Section 301(c) of the
26 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended—

27 (A) by striking "or 703" and inserting ", 703, or 703A"; and

28 (B) by inserting "416," before "504".

29 (2) Unsafe Food Transportation.--Section 301 of the Act (21 U.S.C. 331)
30 is further amended by adding at the end the following new subsection:

1 "(gg) The failure, by a shipper, carrier, receiver, or any other person
2 engaged in the transportation of food, to comply with the sanitary transportation
3 practices prescribed by the Secretary under section 416."

4 **SEC. 7403. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.**

5 Chapter 57 of title 49, relating to sanitary food transportation is revised to
6 read as follows:

7 **"CHAPTER 57--SANITARY FOOD TRANSPORTATION**

8 "Sec.

9 "5701. Food transportation safety inspections.

10
11 **"Sec. 5701. Food transportation safety inspections**

12 "(a) INSPECTION PROCEDURES.--(1) The Secretary of Transportation,
13 in consultation with the Secretaries of Health and Human Services and
14 Agriculture, shall establish procedures to be used in performing transportation
15 safety inspections for the purpose of identifying suspected incidents of
16 contamination or adulteration of food that may violate regulations issued under
17 section 416 of title 21, United States Code, and of meat and poultry products
18 subject to detention under section 402 of the Federal Meat Inspection Act (21
19 U.S.C. 672) and section 19 of the Poultry Products Inspection Act (21 U.S.C.
20 467a), and shall train personnel of the Department of Transportation in the
21 appropriate use of such procedures.

22 "(2) The procedures established under paragraph (1) of this subsection
23 shall apply, at a minimum, to the Department of Transportation personnel who
24 perform commercial motor vehicle and railroad safety inspections.

25 "(b) NOTIFICATION OF SECRETARIES OF HEALTH AND HUMAN
26 SERVICES AND AGRICULTURE.--The Secretary of Transportation shall
27 promptly notify the Secretary of Health and Human Services or the Secretary of
28 Agriculture, as applicable, of any instances of potential food contamination or
29 adulteration of a food identified during transportation safety inspections.

30 "(c) USE OF STATE EMPLOYEES.--The means by which the Secretary
31 of Transportation carries out subsection (b) of this section may include

1 inspections conducted by State employees using funds authorized to be
2 appropriated under sections 31102 through 31104 of this title."

3 **SEC. 7404. EFFECTIVE DATE OF THE SUBTITLE.**

4 Unless otherwise specified, the provisions of this title are effective
5 October 1, 2003.

6
7 **Subtitle E--Sport Fishing and Boating Safety**

8
9 **SEC. 7501. SPORT FISH RESTORATION ACCOUNT AMENDMENTS.**

10 (a) IN GENERAL.--Section 4 of the Act entitled "An Act to provide that
11 the United States shall aid the States in fish restoration and management projects,
12 and for other purposes" (August 9, 1950)(16 U.S.C. 777c) is amended--

13 (1) in subsection (b),

14 (A) by striking "2003" each place it appears and inserting
15 "2009"; and

16 (B) by striking "Secretary of Transportation" each place it
17 appears and inserting "Secretary of Homeland Security"; and

18 (2) in subsection (c)(5), by striking "fiscal year 2003" and inserting
19 "fiscal years 2003 through 2009".

20 (b) CLEAN MARINA INITIATIVES.--To further enhance the natural
21 environment, federal agencies administering programs funded under the Aquatic
22 Resources Trust Fund should promote, to the extent practicable, "Clean Marina
23 Initiatives" in each of the following programs:

24 (1) Clean Vessel Act "Pumpout" Program.

25 (2) Boating Infrastructure Grant Program.

26 (3) National Outreach and Communications Program.

27 (4) Recreational Boating Access Facilities.

28
29 **TITLE VIII--TRANSPORTATION DISCRETIONARY SPENDING**
30 **GUARANTEE AND BUDGET OFFSETS**

31

1 **SEC. 8101. DISCRETIONARY SPENDING CATEGORIES.**

2 (a) DEFINITION OF HIGHWAY CATEGORY AND MASS TRANSIT
3 CATEGORY.—

4 (1) Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit
5 Control Act of 1985 is amended by--

6 (A) striking “Transportation Equity Act for the 21st Century” and
7 inserting “Safe, Accountable, Flexible, and Efficient Transportation Equity
8 Act of 2003”; and

9 (B) adding after item (iv) the following new clauses:

10 “(v) 69-8158-0-7-401 (Motor Carrier Safety Grants).

11 “(vi) 69-8159-0-7-401 (Motor Carrier Safety Operations and
12 Programs).”.

13 (2) Section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit
14 Control Act of 1985 is amended to read as follows:

15 “(C) The term 'mass transit category' refers to the following budget accounts or
16 portions thereof that are subject to the obligation limitations on contract authority
17 provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of
18 2003 or for which appropriations are provided pursuant to authorizations contained in
19 that Act:

20 “(i) 69-1120-0-1-401 (Administrative Expenses).

21 “(ii) 69-1134-0-1-401 (Capital Investment Grants).

22 “(iii) 69-8191-0-7-401 (Discretionary Grants).

23 “(iv) 69-1129-0-1-401 (Formula Grants).

24 “(v) 69-8303-0-7-401 (Formula Grants and Research).

25 “(vi) 69-1127-0-1-401 (Interstate Transfer Grants--Transit).

26 “(vii) 69-1125-0-1-401 (Job Access and Reverse Commute).

27 “(viii) 69-1122-0-1-401 (Miscellaneous Expired Accounts).

28 “(ix) 69-1139-0-1-401 (Major Capital Investment Grants).

29 “(x) 69-1121-0-1-401 (Research, Training and Human Resources).

30 “(xi) 69-8350-0-7-401 (Trust Fund Share of Expenses).

31 “(xii) 69-1137-0-1-401 (Transit Planning and Research).

1 "(xiii) 69-1136-0-1-401 (University Transportation Research).

2 "(xiv) 69-1128-0-1-401 (Washington Metropolitan Area Transit Authority).".

3 (b) CONTINUATION OF SEPARATE CATEGORIES.--Section 251(c) of the
4 Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at
5 the end the following new paragraphs:

6 “(8) with respect to fiscal year 2004--

7 “(A) for the highway category: \$29,990,000,000 in outlays; and

8 “(B) for the mass transit category: \$6,909,000,000 in outlays.

9 “(9) with respect to fiscal year 2005--

10 “(A) for the highway category: \$30,589,000,000 in outlays; and

11 “(B) for the mass transit category: \$6,462,000,000 in outlays.

12 “(10) with respect to fiscal year 2006--

13 “(A) for the highway category: \$31,249,000,000 in outlays; and

14 “(B) for the mass transit category: \$6,070,000,000 in outlays.

15 “(11) with respect to fiscal year 2007--

16 “(A) for the highway category: \$32,402,000,000 in outlays; and

17 “(B) for the mass transit category: \$5,843,000,000 in outlays.

18 “(12) with respect to fiscal year 2008--

19 “(A) for the highway category: \$33,358,000,000 in outlays; and

20 “(B) for the mass transit category: \$6,374,000,000 in outlays.

21 “(13) with respect to fiscal year 2009--

22 “(A) for the highway category: \$34,109,000,000 in outlays; and

23 “(B) for the mass transit category: \$6,470,000,000 in outlays.”.

24 (c) HIGHWAY FUNDING REVENUE ALIGNMENT.--Section 251(b)(1)(B) of
25 the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B))
26 is amended--

27 (1) in clause (i),

28 (A) by inserting "for fiscal year 2006, 2007, 2008, or 2009" after
29 "submits the budget";

30 (B) by inserting "the obligation limitation and outlay limit for"
31 after "adjustments to";

1 (C) by striking "provided in clause (ii)(I)(cc)." and substituting
2 "follows:"; and

3 (D) by inserting the following at the end:

4 "(I) OMB shall calculate the change in the
5 obligation limitation for the highway category for the
6 budget year by taking the actual level of highway receipts
7 for the year before the current year and subtracting the sum
8 of the estimated level of highway receipts in clause (iii)
9 plus any amount previously calculated under clause (ii) for
10 that year.

11 "(II) OMB shall take the amount calculated under
12 subclause (I) and add that amount to the obligation
13 limitation set forth in section 8102(a) of the Safe,
14 Accountable, Flexible, and Efficient Transportation Equity
15 Act of 2003 for the highway category for the budget year,
16 and calculate the outlay change resulting from that change
17 in obligations relative to that amount for the budget year
18 and each outyear using current estimates. After making the
19 calculation under the preceding sentence, OMB shall adjust
20 the obligation limitation set forth in that section for the
21 budget year by adding the amount calculated under
22 subclause (I).";

23 (2) by striking clause (ii) and substituting the following:

24 "(ii) When the President submits the supplementary budget
25 estimates for fiscal year 2006, 2007, 2008, or 2009, under section
26 1106 of title 31, United States Code, OMB's Mid-Session Review
27 shall include adjustments to the obligation limitation and outlay
28 limit for the highway category for the budget year and each
29 outyear as follows:

1 "(I) OMB shall take the current estimate of highway
2 receipts for the current year and subtract the estimated level
3 of highway receipts in clause (iii) for that year.

4 "(II) OMB shall take the amount calculated under
5 subclause (I) and add that amount to the amount of
6 obligations set forth in section 8102 of the Safe,
7 Accountable, Flexible, and Efficient Transportation Equity
8 Act of 2003 for the highway category for the budget year,
9 and calculate the outlay change resulting from that change
10 in obligations relative to that amount for the budget year
11 and each outyear using current estimates. After making the
12 calculation under the preceding sentence, OMB shall adjust
13 the amount of obligations set forth in that section for the
14 budget year by adding the amount calculated under
15 subclause (I)."; and

16 (3) by inserting the following at the end:

17 "(iii) The estimated level of highway receipts for the
18 purposes of this subparagraph are--

19 "(I) for fiscal year 2004, \$30,119,000,000;

20 "(II) for fiscal year 2005, \$31,109,000,000;

21 "(III) for fiscal year 2006, \$32,191,000,000;

22 "(IV) for fiscal year 2007, \$33,146,000,000;

23 "(V) for fiscal year 2008, \$34,018,000,000; and

24 "(VI) for fiscal year 2009, \$34,844,000,000.

25 "(iv) In this subparagraph, the term "highway receipts"
26 means the governmental receipts credited to the highway account
27 of the Highway Trust Fund."

28 (d) TRANSIT FUNDING REVENUE ALIGNMENT.--Section 251(b)(1)(C) of
29 the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(C))
30 is amended to read as follows:

31 "(C) Adjustment to align mass transit spending with revenues

1 "(i) When the President submits the budget for fiscal year 2006,
2 2007, 2008, or 2009, under section 1105 of title 31, United States Code,
3 OMB shall calculate and the budget shall include adjustments to the
4 obligation limitation and outlay limit for the mass transit category for the
5 budget year and each outyear as follows:

6 "(I) OMB shall calculate the change in the obligation
7 limitation for the mass transit category for the budget year by
8 taking the actual level of mass transit receipts for the year before
9 the current year and subtract the sum of the estimated level of mass
10 transit receipts in clause (iii) plus any amount previously
11 calculated under clause (ii) for that year.

12 "(II) OMB shall take the amount calculated under
13 subclause (I) and add that amount to the amount of obligation
14 limitation set forth in section 8102 of the Safe, Accountable,
15 Flexible, and Efficient Transportation Equity Act of 2003 for the
16 mass transit category for the budget year, and calculate the outlay
17 change resulting from that change in obligations relative to that
18 amount for the budget year and each outyear using current
19 estimates. After making the calculation under the preceding
20 sentence, OMB shall adjust the obligation limitation set forth in
21 that section for the budget year by adding the amount calculated
22 under subclause (I).

23 "(ii) When the President submits the supplementary budget
24 estimates for fiscal year 2006, 2007, 2008, or 2009, under section 1106
25 of title 31, United States Code, OMB's Mid-Session Review shall
26 include adjustments to the obligation limitation and outlay limit for the
27 mass transit category for the budget year and each outyear as follows:

28 "(I) OMB shall take the current estimate of mass transit
29 receipts for the current year and subtract the estimated level of
30 mass transit receipts in clause (iii) for that year.

1 "(II) OMB shall take the amount calculated under subclause (I)
2 and add that amount to the obligation limitation set forth in section
3 8102 of the Safe, Accountable, Flexible, and Efficient
4 Transportation Equity Act of 2003 for the mass transit category for
5 the budget year, and calculate the outlay change resulting from that
6 change in obligations relative to that amount for the budget year
7 and each outyear using current estimates. After making the
8 calculation under the preceding sentence, OMB shall adjust the
9 obligation limitation set forth in that section for the budget year by
10 adding the amount calculated under subclause (I).

11 "(iii) The estimated level of mass transit receipts for the purposes
12 of this subparagraph are—

13 "(I) for fiscal year 2004, \$4,793,000,000;

14 "(II) for fiscal year 2005, \$4,926,000,000;

15 "(III) for fiscal year 2006, \$5,050,000,000;

16 "(IV) for fiscal year 2007, \$5,164,000,000;

17 "(V) for fiscal year 2008, \$5,270,000,000; and

18 "(VI) for fiscal year 2009, \$5,377,000,000.

19 "(iv) In this subparagraph, the term “mass transit receipts” means
20 the governmental receipts credited to the Mass Transit Account of the
21 Highway Trust Fund.”.

22 (e) ADDITIONAL ADJUSTMENTS.--Section 251(b)(1) of the Balanced Budget
23 and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is further amended--

24 (1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and
25 (F), respectively;

26 (2) in subparagraph (E)(i) as redesignated,

27 (A) by striking "1999" and substituting "2005";

28 (B) by striking "2000" and substituting "2006";

29 (C) by striking "2003" and substituting "2009; and

1 (D) by striking "section 8103 of the Transportation Equity Act for
2 the 21st Century" and substituting "section 8102 of the Safe, Accountable,
3 Flexible, and Efficient Transportation Equity Act of 2003";

4 (3) in subparagraph (E)(ii) as redesignated,

5 (A) by striking "2000, 2001, 2002, or 2003" and substituting
6 "2006, 2007, 2008, and 2009; and

7 (B) by striking "by subparagraphs (B) and (C)" and substituting
8 "made by subparagraphs (B), (C), and (D)";

9 (4) in subparagraph (F) as redesignated, by striking "(B) and (C)" and
10 substituting "(B), (C), and (D)"; and

11 (5) by inserting the following after subparagraph (C):

12 "(D) In addition to the adjustments required by subparagraphs (B)
13 and (C), when the President submits the budget for fiscal year 2006, 2007,
14 2008, or 2009, under section 1105 of title 31, United States Code, OMB
15 shall calculate and the budget shall include for the budget year and each
16 outyear an adjustment to the limits on outlays for the highway category
17 and the mass transit category equal to--

18 "(i) the outlays for the applicable category calculated
19 assuming obligation levels consistent with the estimates prepared
20 pursuant to subparagraph (E), as adjusted, using current technical
21 assumptions; minus

22 "(ii) the outlays for the applicable category set forth in the
23 subparagraph (E) estimates, as adjusted."

24 (f) ENFORCEMENT OF GUARANTEE.--Rule XXI of the Rules of the House of
25 Representatives is amended by striking "section 8103 of the Transportation Equity Act
26 for the 21st Century" in clause 3 and substituting "section 8102 of the Safe, Accountable,
27 Flexible, and Efficient Transportation Equity Act of 2003".

28 **SEC. 8102. LEVEL OF OBLIGATION LIMITATIONS.**

29 (a) HIGHWAY CATEGORY.—For the purposes of section 251(b) of the
30 Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation
31 limitations for the highway category is—

- 1 (1) for fiscal year 2004, \$30,280,000,000;
- 2 (2) for fiscal year 2005, \$31,270,000,000;
- 3 (3) for fiscal year 2006, \$32,352,000,000;
- 4 (4) for fiscal year 2007, \$33,307,000,000;
- 5 (5) for fiscal year 2008, \$34,179,000,000; and
- 6 (6) for fiscal year 2009, \$35,005,000,000.

7 (b) MASS TRANSIT CATEGORY—(1) For the purposes of section 251(b) of
8 the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation
9 limitations for the mass transit category is—

- 10 (1) for fiscal year 2004, \$5,936,000,000;
- 11 (2) for fiscal year 2005, \$6,054,720,000;
- 12 (3) for fiscal year 2006, \$6,180,659,000;
- 13 (4) for fiscal year 2007, \$6,319,723,000;
- 14 (5) for fiscal year 2008, \$6,475,820,000; and
- 15 (6) for fiscal year 2009, \$6,633,183,000.

16 (2) For purposes of this subsection, the term “obligation limitations” means the
17 sum of budget authority and obligation limitations.

18 **SEC. 8103. EFFECTIVENESS OF TITLE.**

19 This title, and the amendments made by this title, become effective on the day that
20 section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 comes
21 into effect after the enactment of this Act.

22

23 **TITLE IX--AMENDMENTS OF INTERNAL REVENUE CODE OF 1986**

24

25 **SEC. 9001. SHORT TITLE; AMENDMENT OF 1986 CODE.**

26 (a) SHORT TITLE.—This title may be cited as the “Surface
27 Transportation Revenue Act of 2004”.

28 (b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly
29 provided, whenever in this title an amendment or repeal is expressed in terms of
30 an amendment to, or repeal of, a section or other provision, the reference shall be

1 considered to be made to a section or other provision of the Internal Revenue
2 Code of 1986.

3
4 **SEC. 9002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST**
5 **FUND.**

6 (a) EXTENSION OF TAXES.—

7 (1) IN GENERAL.—The following provisions are each amended by
8 striking “2005” each place it appears and inserting “2011”:

9 (A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain
10 buses).

11 (B) Section 4041(a)(2)(B) (relating to rate of tax on special motor
12 fuels).

13 (C) Section 4041(m)(1)(A) (relating to certain alcohol fuels).

14 (D) Section 4051(c) (relating to termination of tax on heavy trucks
15 and trailers).

16 (E) Section 4071(d) (relating to termination of tax on tires).

17 (F) Section 4081(d)(1) (relating to termination of tax on gasoline,
18 diesel fuel, and kerosene).

19 (G) Section 4481(e) (relating to period tax in effect).

20 (H) Section 4482(c)(4) (relating to taxable period).

21 (I) Section 4482(d) (relating to special rule for taxable period in
22 which termination date occurs).

23 (2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to
24 floor stocks refunds) is amended—

25 (A) by striking “2005” each place it appears and inserting “2011”,
26 and

27 (B) by striking “2006” each place it appears and inserting “2012”.

28 (b) EXTENSION OF CERTAIN EXEMPTIONS.—The following
29 provisions are each amended by striking “2005” and inserting “2011”:

30 (1) Section 4221(a) (relating to certain tax-free sales).

1 (2) Section 4483(g) (relating to termination of exemptions for highway
2 use tax).

3 (c) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS
4 FROM, TRUST FUND.— Subsections (b), (c)(2), and (c)(3) of section 9503
5 (relating to the Highway Trust Fund) are amended—

6 (A) by striking “2005” each place it appears and inserting
7 “2011”, and

8 (B) by striking “2006” each place it appears and inserting
9 “2012”.

10 (d) EXTENSION AND EXPANSION OF EXPENDITURES FROM
11 TRUST FUND.—

12 (1) HIGHWAY ACCOUNT.—Section 9503 is amended by striking
13 subsection (c)(1) and inserting the following:

14 "(1) Federal-aid highway and safety programs.--Except as provided in
15 subsection (e), amounts in the Highway Trust Fund shall be available, as provided
16 by appropriation Acts, for making expenditures authorized by law to be paid out
17 of the Highway Trust Fund before October 1, 2011, to meet those obligations of
18 the United States heretofore or hereafter incurred under the following Acts, as in
19 effect on the date of enactment of the last Act listed:

20 (A) The Highway Revenue Act of 1956.

21 (B) The Surface Transportation Assistance Act of 1982.

22 (C) The Surface Transportation and Uniform Relocation
23 Assistance Act of 1987.

24 (D) The Intermodal Surface Transportation Efficiency Act of 1991.

25 (E) The Transportation Equity Act for the 21st Century.

26 (F) The Motor Carrier Safety Improvement Act of 1999.

27 (G) the Safe, Accountable, Flexible, and Efficient Transportation
28 Equity Act of 2003."

29 (2) MASS TRANSIT ACCOUNT.--Section 9503(e)(3) is amended to read
30 as follows:

1 "(3) Expenditures from Account.--Amounts in the Mass Transit Account
2 shall be available, as provided by appropriation Acts, for making capital or
3 capital-related expenditures before October 1, 2011 (including capital
4 expenditures for new projects) in accordance with the following Acts and
5 provisions of law, as in effect on the date of enactment of the last Act listed:

6 "(A) Section 5338(a)(1) or (b)(1) of title 49.

7 "(B) The Intermodal Surface Transportation Efficiency Act of 1991.

8 "(C) The Transportation Equity Act for the 21st Century.

9 "(D) the Safe, Accountable, Flexible, and Efficient Transportation Equity
10 Act of 2003."

11 **SEC. 9003. EXTENSION OF TAX BENEFITS FOR ALCOHOL FUELS.**

12 (a) EXTENSION OF TAX BENEFITS.—

13 (1) EXTENSION.—The following provisions are each amended by
14 striking “2007” each place it appears and inserting “2014”:

15 (A) Section 4041(b)(2)(C)(ii) and (D) (relating to termination of
16 reduction in tax for qualified methanol and ethanol fuel).

17 (B) Section 4041(k)(3) (relating to termination of rates relating to
18 fuels containing alcohol).

19 (C) Section 4081(c)(8) (relating to termination of special rate for
20 taxable fuels mixed with alcohol).

21 (D) Section 4091(c)(5) (relating to termination of reduced rate of
22 tax for aviation fuel in alcohol mixture, etc.).

23 (E) Section 40(h) (relating to termination of credit for ethanol
24 blenders).

25 (2) EXTENSION OF REFUND AUTHORITY.—Paragraph (4) of
26 section 6427(f) (relating to refund for gasoline, diesel fuel, and aviation fuel
27 used to produce certain alcohol fuels), as amended by the Taxpayer Relief Act
28 of 1997, is amended by striking “2007” and inserting “2012”.

29 (3) CREDIT FOR ALCOHOL USED AS A FUEL.—Paragraph (1) of
30 section 40(e) (relating to termination of credit for alcohol used as a fuel) is
31 amended—

1 (A) by striking “December 31, 2007” in subparagraph (A) and
2 inserting “December 31, 2014”, and

3 (B) by striking “January 1, 2008” and inserting “January 1, 2015”.

4 (4) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the
5 Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each
6 amended in the effective period column by striking “10/1/2007” each place it
7 appears and inserting “10/1/2014”.

8 (b) CONFORMING AMENDMENTS.—

9 (1) AMOUNT OF REDUCED CREDIT FOR ETHANOL
10 BLENDERS.--The table in paragraph (2) of 40(h) is amended by striking
11 "2005, 2006, or 2007" and inserting "2005 through 2014".

12 (2) APPLICABLE BLENDER RATE FOR EXEMPTED
13 QUALIFIED METHANOL AND ETHANOL FUEL.--Section
14 4041(b)(2)(C) is amended by striking “2001” and inserting “2008”.

15 **SEC. 9004. PRIVATE ACTIVITY BONDS FOR SURFACE**
16 **TRANSPORTATION INFRASTRUCTURE.**

17 (a) EXEMPT FACILITY BONDS.--Section 142 is amended--

18 (1) in subsection (a) by--

19 (A) striking “or” at the end of paragraph (12);

20 (B) striking the period at the end of paragraph (13) and
21 inserting a comma; and

22 (C) adding after paragraph (13) the following new
23 paragraphs:

24 “(14) highway facilities, or

25 “(15) surface freight transfer facilities.”; and

26 (2) by adding new subsections (l), (m) and (n) at the end, as
27 follows:

28 “(l) HIGHWAY FACILITIES.--For purposes of subsection (a)(14), the
29 term “highway facilities” means--

1 “(1) a surface transportation project eligible for Federal assistance
2 under title 23, United States Code (as in effect on the date of enactment of
3 this subsection), or

4 “(2) a project for an international bridge or tunnel for which an
5 international entity authorized under Federal or State law is responsible.

6 “(m) SURFACE FREIGHT TRANSFER FACILITIES.--For purposes of
7 subsection (a)(15), the term “surface freight transfer facilities” means facilities for
8 the transfer of freight from truck to rail or rail to truck (including any temporary
9 storage facilities directly related to such transfers).

10 “(n) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING
11 FOR HIGHWAY FACILITIES AND SURFACE FREIGHT TRANSFER
12 FACILITIES.

13 “(1) IN GENERAL.--The aggregate face amount of bonds issued pursuant
14 to subsections (a)(14) (relating to highway facilities) and (a)(15) (relating to
15 surface freight transfer facilities) shall not exceed \$15,000,000,000, determined
16 without regard to any bond the proceeds of which are used exclusively to refund a
17 bond issued pursuant to either of such subsections (or a bond which is a part of a
18 series of refundings of a bond so issued) if the amount of the refunding bond does
19 not exceed the outstanding amount of the refunded bond.

20 “(2) ALLOCATION.--The Secretary of Transportation shall allocate the
21 amount described in paragraph (1) among eligible projects satisfying the
22 requirements of subsection (a)(14) or (a)(15).”.

23 (b) VOLUME CAP, EXCEPTION FOR CERTAIN BONDS.--Section
24 146(g) is amended in paragraph (3), by--

25 (1) striking “(12), or (13)” and inserting “(12), (13), (14), or (15)”;

26 and

27 (2) striking “and qualified public educational facilities” and
28 inserting “qualified public educational facilities, highway facilities, and
29 surface freight transfer facilities”.

30 (c) EFFECTIVE DATE.--The amendments made by this section shall apply to
31 bonds issued after the date of the enactment of this Act.

1 **SEC. 9005. ALL ALCOHOL FUEL TAXES TRANSFERRED TO**
2 **HIGHWAY TRUST FUND.**

3 (a) IN GENERAL.—Section 9503(b)(4) (relating to certain taxes not
4 transferred to Highway Trust Fund) is amended--

5 (1) by adding “or” at the end of subparagraph (C);

6 (2) in subparagraph (D)(iii), by striking “, and” after “2005” and
7 inserting a period; and

8 (3) by striking subparagraphs (E) and (F).

9 (b) EFFECTIVE DATE.—The amendments made by this section shall
10 apply to taxes imposed after September 30, 2003.

11 **SEC. 9006. TRANSFER FROM HIGHWAY TRUST FUND TO BOAT**
12 **SAFETY ACCOUNT.**

13 (a) IN GENERAL.--Section 9503(c)(4)(A) is amended by striking “2005”
14 and inserting “2011”.

15 (b) CONFORMING AMENDMENTS TO LAND AND WATER
16 CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation
17 Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended--

18 (1) by striking “2003” and inserting “2009”, and

19 (2) by striking “2004” each place it appears and inserting
20 “2010”.

21 (c) TECHNICAL CORRECTION TO HOMELAND SECURITY ACT.--
22 Section 1511(e)(2) of the Homeland Security Act of 2002 (Pub. L. No. 107-296)
23 is amended by striking “and to any funds provided to the Coast Guard from the
24 Aquatic Resources Trust Fund of the Highway Trust Fund for boating safety
25 programs”, and inserting "and any funds provided to the Coast Guard from the
26 Highway Trust Fund and transferred into the Boat Safety Account of the Aquatic
27 Resources Trust Fund for boating safety programs."

28 (d) EXPENDITURES FROM BOAT SAFETY ACCOUNT.--Section
29 9504(c) is amended by striking “2003” and inserting “2009”.

30 **SEC. 9007. EXTENSION OF SMALL-ENGINE FUEL TAXES**
31 **TRANSFERRED TO SPORT FISH RESTORATION ACCOUNT.**

1 Section 9503(c)(5)(A) is amended by striking the year “2005” and
2 inserting “2011”.

3 **SEC. 9008. TECHNICAL CORRECTION.**

4 The last sentence of paragraph (2) of section 9504(b) is amended by
5 striking “subparagraph (B)”, and inserting “subparagraph (C)”.

6 **SEC. 9009. TRANSFER BY REGISTERED PIPELINE, VESSEL, OR**
7 **BARGE REQUIRED FOR FUEL TAX EXEMPTION OF BULK**
8 **TRANSFERS TO REGISTERED TERMINALS OR REFINERIES;**
9 **DISPLAY OF REGISTRATION REQUIREMENT.**

10 (a) IN GENERAL.--Section 4081(a)(1)(B) (relating to exemption for bulk
11 transfers to registered terminals or refineries) is amended by inserting ", bulk
12 carrier," after "the taxable fuel".

13 (b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY
14 NONREGISTERED PIPELINES OR VESSELS.--

15 (1) IN GENERAL.-- Part II of subchapter B of chapter 68 (relating
16 to assessable penalties) is amended by adding at the end the following new
17 section:

18 **"§ 6717. Failure to register under section 4101**

19 "(a) FAILURE TO REGISTER.-- Any person who fails to register with
20 the Secretary as required by regulations under section 4101 shall pay a penalty of
21 \$1,000 for each day during the period of such failure in which such person
22 engages in an activity for which registration is required.

23 "(b) JOINT AND SEVERAL LIABILITY.--

24 "(1) IN GENERAL.--If a penalty is imposed under this section on
25 any business entity, each officer, employee, or agent of such entity or
26 other contracting party who willfully participated in any act giving rise to
27 such penalty shall be jointly and severally liable with such entity for such
28 penalty.

29 "(2) AFFILIATED GROUPS.--If a business entity described in
30 paragraph (1) is part of an affiliated group (as defined in section 1504(a)),

1 the parent corporation of such entity shall be jointly and severally liable
2 with such entity for the penalty imposed under this section."

3 (2) CONFORMING AMENDMENT.--The table of sections for
4 part II of subchapter B of chapter 68 is amended by adding at the end the
5 following new item:

6 "6717. Failure to register under section 4101."

7 (c) DISPLAY OF REGISTRATION.--

8 (1) IN GENERAL.--Section 4101 (relating to registration and
9 bond) is amended by adding at the end the following new subsection:

10 "(e) DISPLAY OF REGISTRATION.--Every vessel operator
11 required by the Secretary to register under this section with respect to the
12 tax imposed by section 4081 shall display proof of such registration in
13 such manner as the Secretary may prescribe."

14 (2) CIVIL PENALTY FOR FAILURE TO DISPLAY
15 REGISTRATION.--

16 (A) IN GENERAL.--Part II of subchapter B of chapter 68
17 (relating to assessable penalties) is amended by adding at the end
18 the following new section:

19 **"§ 6718. Failure to display proof of registration by vessels or barges**

20 "(a) FAILURE TO DISPLAY PROOF OF REGISTRATION.--Every
21 vessel operator who fails to display proof of registration when required to do so
22 pursuant to section 4101(e) shall pay a penalty of \$500 for each such failure. With
23 respect to any vessel, only one penalty shall be imposed by this section during any
24 calendar month.

25 "(b) MULTIPLE VIOLATIONS.--In determining the penalty under
26 subsection (a) on any person or operator, subsection (a) shall be applied by
27 increasing the amount imposed in subsection (a) by the product of such amount
28 and the number of prior penalties (if any) imposed by this section on such person
29 (or a related person or any predecessor of such person or related person)."

1 (B) CONFORMING AMENDMENT.--The table of
2 sections for part II of subchapter B of chapter 68 is amended by
3 adding at the end the following new item:

4 "6718. Failure to display proof of registration by vessels or barges."

5 (d) EFFECTIVE DATE.--The amendments made by this section shall take
6 effect 90 days after the date of enactment of this Act.

7 **SEC. 9010. RETURNS FILED ELECTRONICALLY.**

8 (a) INFORMATION REPORTING.--Section 4101(d) (relating to
9 information reporting) is amended to read as follows:

10 "(d) INFORMATION REPORTING.—

11 "(1) The Secretary may require--

12 "(A) information reporting by any person registered under
13 this section, and

14 "(B) information reporting by such other persons as the
15 Secretary deems necessary to carry out this part.

16 "(2) Information reporting required by the Secretary under
17 paragraph (1) of this subsection shall be by electronic format for any
18 person having at least 25 reportable transactions in a month".

19 (b) USE TAX ON CERTAIN VEHICLES.--Section 4481(b) is amended
20 by adding the following new sentence at the end: "Any return of tax imposed by
21 this section reporting at least 25 vehicles shall be filed by electronic format".

22 (c) ELECTRONIC FORMAT.--The Secretary of the Treasury shall
23 describe the electronic formats for filing under subsections (a) and (b) not later
24 than 90 days after the date of the enactment of this Act.

25 (d) EFFECTIVE DATE.--The amendment made by subsection (a) shall
26 apply to returns due after the date the Secretary of the Treasury describes the
27 electronic format for filing under subsection (a) and the amendment made by
28 subsection (b) shall apply to returns due after the date the Secretary of the
29 Treasury describes the electronic format for filing under subsection (b).

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31 **SEC. 9011. CIVIL PENALTY FOR REFUSAL OF ENTRY.**

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(a) Section 4083(c)(3) is amended by adding at the end a new sentence as follows:

"For purposes of this subsection, the penalty provided by section 7342 shall be treated as an assessable penalty and assessed in accordance with section 6671."

(b) EFFECTIVE DATE.-- The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

**SEC. 9012. REQUIREMENT OF TAX PAYMENT DECAL;
ELIMINATION OF INSTALLMENT PAYMENTS OF HIGHWAY USE
TAX.**

(a) DISPLAY OF PROOF OF PAYMENT OF TAX.--Section 4481(b) (relating to imposition of tax on use of certain highway motor vehicles) is amended by adding a sentence at the end as follows:

"Every person, agency, or instrumentality who has paid the tax imposed by this section shall display proof of such payment in a manner as the Secretary may prescribe."

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY PROOF OF TAX PAYMENT DECAL.--

(1) IN GENERAL.--Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"§ 6719. Failure to display proof of tax payment decal

(a) IMPOSITION OF PENALTY.--Each person, agency, or instrumentality who fails to display proof of payment of tax when required to do so pursuant to the last sentence of section 4481(b) (relating to the display of proof

1 of payment of tax) shall pay a penalty of \$50. With respect to any vehicle, only
2 one penalty shall be imposed by this section during any calendar month.

3 "(b) MULTIPLE VIOLATIONS.--In determining the penalty under
4 subsection (a) on any person, agency, or instrumentality, subsection (a) shall be
5 applied by increasing the amount imposed in subsection (a) by the product of such
6 amount and the number of prior penalties (if any) imposed by this section on such
7 person, agency, or instrumentality. "

8 (2) CONFORMING AMENDMENT.--The table of sections for
9 part II
10 of subchapter B of chapter 68 is amended by adding at the end the
11 following new item:
12 "6719. Failure to display proof of tax payment decal."

13 (c) ELIMINATION OF PRIVILEGE TO PAY HIGHWAY USE TAX IN
14 INSTALLMENTS.--

15 (1) REPEAL.--Section 6156 (relating to the privilege to pay in
16 installments the tax imposed under section 4481 of such Code on use of
17 highway motor vehicles) is repealed.

18 (2) CONFORMING AMENDMENT.--The table of sections for
19 subchapter A of chapter 62 is amended by striking the item relating to
20 section 6156.

21 (d) EFFECTIVE DATE.--The amendments made by this section shall
22 apply to taxable periods beginning after the date of the enactment of this Act.

23
24 **SEC. 9013. ADDITIONAL RULES REGARDING INSPECTIONS OF**
25 **RECORDS.**

26
27 (a) PROVISION OF COPIES OF RECORDS.--Section 4102 (relating to
28 inspection of records by local officers) is amended by inserting ", and copies shall
29 be furnished upon request of," after "inspection by".

30 (b) INSPECTION BY OTHER ENFORCEMENT AGENCIES.--Section
31 4102 of the Internal Revenue Code of 1986, as amended by subsection (a), is

1 amended by inserting "; such records and information on returns required to be
2 filed with respect to taxes under section 4481 shall be open to inspection by
3 officers of any State agency charged with the registration and licensing of
4 vehicles described in such section and officers of any other Federal or State
5 agency charged with the enforcement of Federal or State law regarding taxable
6 fuels or criminal activities regarding taxable fuels" after "section 4083)".

7 (c) EFFECTIVE DATE.--The amendments made by this section shall take
8 effect on the date of the enactment of this Act.

9