AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
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108TH CONGRESS
1ST SESSION

S. 1072

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

IN THE SENATE OF THE UNITED STATES

MAY 15, 2003

Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. REID) (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Minimum guarantee.
Sec. 1105. Revenue aligned budget authority.

Subtitle B—New Programs

Sec. 1201. Infrastructure performance and maintenance program.
Sec. 1202. Clarify federal-aid eligibility for certain security projects.
Sec. 1203. Future of the Interstate Highway System.
Sec. 1204. Military vehicle access (oversize and overweight vehicles; relief from tolls).
Sec. 1205. Freight transportation gateways; freight intermodal connections.
Sec. 1206. Authority for alternative time-saving procedures for critical transportation security projects.

Subtitle C—Finance

Sec. 1301. Federal share.
Sec. 1302. Transfer of highway and transit funds.
Sec. 1303. State infrastructure bank pilot program.
Sec. 1304. Transportation Infrastructure Finance and Innovation Act (TIFIA) Amendments.
Sec. 1305. International registration plan and international fuel tax agreement facilitation.
Sec. 1306. Commercialized rest area pilot projects.
Sec. 1307. Highway use tax evasion projects.

Subtitle D—Program Efficiencies and Improvements—Safety

Sec. 1401. National highway safety goal; national Blue Ribbon Commission on Highway Safety.
Sec. 1402. Highway Safety Improvement Program.
Sec. 1403. Operation lifesaver.
Sec. 1404. Highway safety programs; certification of public road mileage.

Subtitle E—Program Efficiencies and Improvements—Planning

Sec. 1501. Metropolitan planning.
Sec. 1502. Statewide planning.
Sec. 1503. State planning and research.
Sec. 1504. Critical real property acquisition.
Sec. 1505. Planning capacity building initiative.

Subtitle F—Program Efficiencies and Improvements—Environment

Sec. 1601. Congestion Mitigation and Air Quality Improvement Program.
Sec. 1602. Efficient environmental reviews for project decisionmaking.
Sec. 1603. Assumption of responsibility for categorical exclusions.
Sec. 1604. Section 4(f) policy on lands, wildlife and waterfowl refuges, and historic sites.
Sec. 1605. National Scenic Byways Program.
Sec. 1606. Recreational Trails Program.
Sec. 1607. Exemption of the Interstate System.

Sec. 1608. Modifications to NHS/STP for invasive species, wetlands, brownfields, and environmental restoration.
Sec. 1609. Standards.
Sec. 1610. Use of HOV lanes.
Sec. 1611. Bicycle transportation and pedestrian walkways.
Sec. 1612. Transportation, energy, and environment.
Sec. 1613. Idling reduction facilities in interstate rights-of-way.
Sec. 1614. Appropriation for transportation purposes of lands or interest in lands owned by the United States.
Sec. 1615. Toll programs.
Sec. 1616. Ozone standards, particulate matter standards, and regional haze program.
Sec. 1617. Indemnification on certain railbanked projects.

Subtitle G.—Program Efficiencies and Improvements—Operations

Sec. 1701. Transportation systems management and operations.
Sec. 1702. Real-Time System Management Information Program.
Sec. 1703. Intelligent transportation systems performance incentive program.
Sec. 1704. Commercial vehicle information systems and networks deployment.

Subtitle H—Program Efficiencies and Improvements—Federal-Aid Stewardship

Sec. 1801. Surface Transportation System Performance Pilot Program.
Sec. 1802. Stewardship and oversight.
Sec. 1803. Emergency relief.
Sec. 1804. Federal Lands Highways Program.
Sec. 1805. Appalachian Development Highway System.
Sec. 1806. Multi-State Corridor Planning Program.
Sec. 1807. Border Planning, Operations, and Technology Program.
Sec. 1808. Territorial Highway Program amendments.
Sec. 1809. Future interstate system routes.
Sec. 1810. Donations and credits.
Sec. 1811. Disadvantaged business enterprises.
Sec. 1812. Highway Bridge Program.
Sec. 1813. Design-build.
Sec. 1814. International ferries.
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Sec. 1816. Transportation, Community, and System Preservation Program.
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Subtitle I—Technical Corrections to Title 23, U.S.C.

Sec. 1901. Repeal or update of obsolete text.
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TITLE II—HIGHWAY SAFETY

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TITLE IV—MOTOR CARRIER SAFETY

Sec. 4001. Authorization of appropriations.
Sec. 4002. Motor carrier safety grants.

Sec. 4003. Hobbs Act.
Sec. 4004. Penalty for denial of access to records.
Sec. 4005. Medical review board and medical examiners.
Sec. 4006. Enforcement of household goods regulations.
Sec. 4007. Registration of commercial motor carriers, freight forwarders, and brokers.
Sec. 4008. Financial responsibility for private motor carriers.
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Sec. 4011. Intrastate operations of interstate motor carriers.
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Sec. 4016. Performance and Registration Information System Management (PRISM).
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TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

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Subtitle E—Intelligent Transportation Systems Research

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TITLE VI—TRANSPORTATION PLANNING; INTERMODAL FACILITIES

Sec. 6001. Transportation planning.
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TITLE VII—MISCELLANEOUS

Subtitle A—Railroads

Sec. 7101. Rail corridor planning.
Sec. 7102. High speed rail authorizations.

Subtitle B—Miscellaneous Technical Corrections to Title 49

Sec. 7201. Correction of obsolete references to Interstate Commerce Commission.

Subtitle C—Hazardous Material Transportation

Sec. 7301. Definitions.
Sec. 7302. Representations and tampering with hazardous material packaging.
Sec. 7303. Hazardous material transportation safety and security.
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Sec. 7402. Responsibilities of the Secretary of Health and Human Services.
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Sec. 7404. Effective date of the subtitle.

Subtitle E—Sport Fishing and Boating Safety

Sec. 7501. Sport fish restoration account amendments.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

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Sec. 9003. Extension of tax benefits for alcohol fuels.
Sec. 9004. Private activity bonds for surface transportation infrastructure.
Sec. 9005. All alcohol fuel taxes transferred to highway trust fund.

Sec. 9006. Transfer from highway trust fund to boat safety account.
Sec. 9007. Extension of small-engine fuel taxes transferred to sport fish restoration account.
Sec. 9008. Technical correction.
Sec. 9009. Transfer by registered pipeline, vessel, or barge required for fuel tax exemption of bulk transfers to registered terminals or refineries; display of registration requirement.
Sec. 9010. Returns filed electronically.
Sec. 9011. Civil penalty for refusal of entry.
Sec. 9012. Requirement of tax payment decal; elimination of installment payments of highway use tax.
Sec. 9013. Additional rules regarding inspections of records.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

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

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

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

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

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

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

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of such title $3,400,000,000 for fiscal year 2004, $3,500,000,000 for fiscal year

2005, $3,700,000,000 for fiscal year 2006, $3,800,000,000 for fiscal year 2007, $3,900,000,000 for fiscal year 2008, and $4,000,000,000 for fiscal year 2009.

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

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

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 150 of such title $1,000,000,000 for fiscal year 2004, $1,100,000,000 for fiscal year 2005, $1,200,000,000 for fiscal year 2006, $1,300,000,000 for fiscal year 2007,

$1,400,000,000 for fiscal year 2008, and $1,500,000,000 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) $450,000,000 for each of fiscal years 2004 through 2009.

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

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

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

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

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of such title, $300,000,000 for fiscal year 2004, $310,000,000 for fiscal year 2005, and

$320,000,000 for each of fiscal years 2006 through 2009.

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

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

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

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

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

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under sec-

tion 162 of title 23, United States Code, $31,500,000 for each of fiscal years 2004 through 2009.

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

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

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

(16) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program

under section 1201 of this Act, $1,000,000,000 for each of fiscal years 2004 through 2009.

SEC. 1102. OBLIGATION CEILING.

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

(1) $29,293,948,000 for fiscal year 2004;

(2) $30,265,000,000 for fiscal year 2005;

(3) $31,326,000,000 for fiscal year 2006;

(4) $32,257,000,000 for fiscal year 2007;

(5) $33,104,000,000 for fiscal year 2008; and

(6) $33,903,000,000 for fiscal year 2009.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978;

(3) section 9 of the Federal-Aid Highway Act of 1981;

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

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

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

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

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

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

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

(1) reserve obligation authority provided by subsection (a) for such fiscal year for amounts authorized for administrative expenses, programs funded from the administrative takedown authorized by

section 104(a) of title 23, United States Code, the infrastructure performance and maintenance program, and for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code;

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

(3) distribute the obligation authority provided by subsection (a) less the aggregate amounts not reserved under paragraph (1) and (2) for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

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

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

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

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations imposed by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and under title V of this Act; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years and shall be in addition

to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

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

(g) ADJUSTMENT IN OBLIGATION LIMIT.—Limitations on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined pursuant to section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year, as amended by this Act. Any such adjustment shall be distributed in accordance with this section.

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

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

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

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

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

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

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

SEC. 1103. APPORTIONMENTS.

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

(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended—

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

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

(3) in paragraph (3), by striking ''These funds shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.'' and inserting ''Any funds that are not used to carry out section 134 of this title may be made available by a metropolitan

planning organization to the State to fund activities under section 135.''; and

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

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

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

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

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

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

SEC. 1104. MINIMUM GUARANTEE.

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

"§ 105. Minimum guarantee

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

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

"States:	Percentage:
Alabama	2.0269
Alaska	1.1915
Arizona	1.5581
Arkansas	1.3214
California	9.1962
Colorado	1.1673
Connecticut	1.5186
Delaware	0.4424
District of Columbia	0.3956
Florida	4.6176
Georgia	3.5104
Hawaii	0.5177
Idaho	0.7718
Illinois	3.3819
Indiana	2.3588
Iowa	1.2020
Kansas	1.1717
Kentucky	1.7365
Louisiana	1.5900
Maine	0.5263
Maryland	1.5087
Massachusetts	1.8638
Michigan	3.1535
Minnesota	1.4993
Mississippi	1.2186
Missouri	2.3615
Montana	0.9929
Nebraska	0.7768
Nevada	0.7248
New Hampshire	0.5163
New Jersey	2.5816
New Mexico	0.9884
New York	5.1628
North Carolina	2.8298
North Dakota	0.6553
Ohio	3.4257
Oklahoma	1.5419
Oregon	1.2183
Pennsylvania	4.9887
Rhode Island	0.5958
South Carolina	1.5910
South Dakota	0.7149
Tennessee	2.2646
Texas	7.2131
Utah	0.7831
Vermont	0.4573
Virginia	2.5627

"States:	Percentage:
Washington	1.7875
West Virginia	1.1319
Wisconsin	1.9916
Wyoming	0.6951.

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

"(d) TREATMENT OF FUNDS.—

"(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion 50 percent of the amounts made available under this section so that the amount apportioned to each State under this paragraph for each program referred to in subsection (a) (other than metropolitan planning, minimum guarantee, Appalachian development highway system, infrastructure performance and maintenance, and recreational trails programs) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

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

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

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

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

"(f) GUARANTEE OF 90.5 PERCENTAGE RETURN.—

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

age return from such Trust Fund is less than 90.5 percent of the State's percentage contribution.

"(2) CONFORMING ADJUSTMENTS.—After making any adjustments under paragraph (1) for a fiscal year, the Secretary shall adjust the remaining percentages in the table set forth in subsection (b) to ensure that the total of the percentages in the table, as adjusted, do not exceed 100 percent for such fiscal year.

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

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

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

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

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY (RABA) AMENDMENTS.

Section 110 of title 23, United States Code, is amended—

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

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

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

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

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

Subtitle B—New Programs

SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.

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

(b) ELIGIBLE PROJECTS.—

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

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

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

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

(c) APPORTIONMENT OF INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM FUNDS.—

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

(A) 25 percent of the apportionments in the ratio that—

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

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

(B) 40 percent of the apportionments in the ratio that—

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

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

(C) 35 percent of the apportionments in the ratio that—

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

(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than

the Mass Transit Account) in the latest fiscal year for which data are available.

(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

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

(e) PERIOD OF AVAILABILITY.—

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

(2) ONE YEAR.—All funds apportioned or reapportioned under this section shall remain available

for obligation until the last day of the fiscal year in which they are apportioned. Any amounts apportioned that remain unobligated at the end of the fiscal year shall lapse.

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

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

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

SEC. 1202. CLARIFY FEDERAL-AID ELIGIBILITY FOR SECURITY PROJECTS.

Section 101 of title 23, United States Code, is amended—

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

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

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

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

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

SEC. 1203. FUTURE OF THE INTERSTATE HIGHWAY SYSTEM.

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

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

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

of commercial and military vehicles that access designated National Highway System intermodal freight terminals.

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

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

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

(b) PREEMPTION.—A law, regulation, order, ruling, provision, or other requirement of a State, territory, In-

dian tribe, or political subdivision thereof, which covers the vehicles and movements described in paragraph (a) and which is not consistent with the procedures or related limitations established by the Secretary under that paragraph, is preempted. The Secretaries of Transportation, Homeland Security, and Defense, may request the Attorney General to bring a civil action seeking appropriate relief respecting the effect of such laws, regulations, orders, rulings, provisions or other requirements in any court of competent jurisdiction. Nothing in this section shall be construed as limiting claims or remedies otherwise available under law or equity.

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

SEC. 1205. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

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

"§ 325. Freight transportation gateways

''(a) IN GENERAL.—

''(1) ESTABLISHMENT.—The Secretary shall establish a freight transportation gateways program to

improve productivity, security, and safety of freight transportation gateways, while mitigating congestion and community impacts in the area of such gateways.

"(2) PURPOSES.—The purposes of the freight transportation gateways program shall be—

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

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

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

"(D) to support military mobilization and readiness.

"(b) STATE RESPONSIBILITIES.—

"(1) PROJECT DEVELOPMENT PROCESS.—Each State shall ensure that intermodal freight transportation, trade facilitation, and economic development

needs are adequately addressed and fully integrated into the project development process, including transportation planning, through final design and construction of freight related transportation projects.

"(2) FREIGHT TRANSPORTATION COORDINATOR POSITION.—Each State shall designate a freight transportation coordinator. The coordinator shall be responsible for fostering public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including coordination of metropolitan and statewide transportation activities with trade and economic interests and coordination with other States, local Department of Defense officials, local Department of Homeland Security officials, agencies, and organizations to find regional solutions to freight transportation problems. The coordinator shall also be responsible for advancing freight professional capacity building programs for the State.

"(c) INNOVATIVE FINANCE.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including new user fees; modifications to existing user fees, including trade facilitation charges; revenue options that incor-

porate private sector investment; and a blending of Federal-aid and innovative finance programs. The Secretary shall provide technical assistance to States and localities with respect to such strategies.

"(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

"(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to it under section 104(b)(3) of this title for publicly owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, security, safety, and environmental issues associated with freight transportation gateways.

"(2) ELIGIBLE PROJECTS.—Projects eligible for funding under this section—

"(A) may include publicly-owned intermodal freight transfer facilities, access to such facilities, and operational improvements for such facilities (including capital investment for Intelligent Transportation Systems), except that projects located within the boundaries of port terminals shall only include the transportation infrastructure modifications necessary to facili-

tate direct intermodal access into and out of such port; and

"(B) may involve the combining of private and public sector funds.".

(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following new paragraph:

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

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

"(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS—

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

"(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria set forth in the report to Congress entitled "Pulling

Together: The National Highway System and its Connections to Major Intermodal Terminals'' dated May 24, 1996, referenced in paragraph (1) of this subsection, and any modifications to these connections consistent with paragraph (4) of this subsection, and

''(ii) Strategic Highway Network (STRAHNET) connectors to strategic military deployment ports.

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

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

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

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

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

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

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

"(11) FREIGHT TRANSPORTATION GATEWAY.—The term 'freight transportation gateway' means a nationally or regionally significant transportation port of entry or hub for domestic and global trade,

military mobilization, and includes freight intermodal and Strategic Highway Network connections that provide access to and from these gateways.''.

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

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

(f) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended by adding at the end ''In the interests of economic competitiveness, security, and intermodal connectivity, States shall update these qualifying highways within three years of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to include Strategic Highway Network connectors to strategic military deployment ports and National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7).''.

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

"325. Freight transportation gateways.".

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

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

(b) The Secretary of Transportation shall develop and implement expedited procedures for critical, time-sensitive highway and public transportation security projects. These procedures shall address planning, environmental review, public involvement, acquisition of rights-of-way, and contracting, and they shall be developed with the concurrence of other affected Federal agencies whose authorities will be affected by the procedures and in consultation with any other Federal agencies that the Secretary determines have an interest in the procedures. For the limited purpose of expediting interim measures needed to address

an imminent threat to the security of a transportation facility, the Secretary may provide that these procedures are exclusive of any other statute relating to planning, environmental reviews, public involvement, acquisition of right-of-way, and contracting, so long as the Secretary determines that such measures are necessary for the protection of the public and receives the concurrence of any other Federal agency responsible for administering such statutes. The Secretary shall issue rules establishing these procedures within one year of the enactment of this law.

Subtitle C—Finance

SEC. 1301. FEDERAL SHARE.

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

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

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

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

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

SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

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

"(m) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

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

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

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

"(A) if the Secretary determines, after consultation with the State transportation department as appropriate, that another Federal agency should carry out a project with funds made available under this title or any other act

that are derived from Highway Trust Fund (other than the Mass Transit account);

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

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

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

"(4) TRANSFER OF FUNDS AMONG STATES OR TO THE FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer funds apportioned or allocated to such State to another State or to the Federal Highway Administration for the purpose of funding a specific project or projects. The funds transferred shall be used for the same purpose and in the same manner for which they were authorized. Such transfer shall have no effect on any apportionment formula used to dis-

tribute funds to the States under sections 104, 105, or 144. Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this subsection only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

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

SEC. 1303. STATE INFRASTRUCTURE BANK PILOT PROGRAM.

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

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

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

(A) to provide credit enhancements;

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

(C) to subsidize interest rates;

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

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

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

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

(3) STATE.—The term ''State'' has the meaning such term has under section 101 of title 23, United States Code.

(4) CAPITALIZATION.—The term ''capitalization'' means the process used for depositing funds as initial capital into a State Infrastructure Bank to establish the infrastructure bank.

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

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

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

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

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

(b) PILOT PROGRAM.—

(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may

enter into cooperative agreements with up to five States, including States that entered into cooperative agreements under section 1511 of the Transportation Equity Act for the 21st Century, as amended, for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

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

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

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

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

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

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

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

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

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

(c) INTERSTATE COMPACTS.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under subsection (b)(1) with the Secretary for the establishment of a multi-state infrastructure bank, to

enter into an interstate compact establishing such bank in accordance with this section.

(d) FUNDING.—

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

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

(B) 10 percent of the funds allocated to the State for each of such fiscal years under section 105 of such title into the highway account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the highway account of the infrastructure bank.

(2) TRANSIT ACCOUNT.—Subject to subsection (i), the Secretary may permit a State entering into a cooperative agreement under this section, and any other Federal transit grant recipient, to contribute

not to exceed 10 percent of the funds made available to the State or other Federal transit grant recipient in each of fiscal years 2004 through 2009 for capital projects under sections 5307, 5309, and 5311 of title 49, United States Code, into the transit account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the transit account of the infrastructure bank.

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

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

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

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

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

(1) contribute, at a minimum, into each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitaliza-

tion grant made to the State and contributed to the bank, except that if the contribution is into the highway account of the bank and the State has a lower non-Federal share under section 120(d) of title 23, as amended by this Act, such percentage shall be adjusted by the Secretary to correspond with such lower non-Federal share. The non-Federal share must be in the form of cash;

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

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

(A) credited to the account;

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

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

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

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

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

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

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

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

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

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

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

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

(j) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment sole-

ly by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

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

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

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

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

(1) in paragraph (3), by striking ''category'' and ''offered into the capital markets'';

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

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

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

(4) in paragraph (10), as redesignated, by striking "bond" and inserting "credit".

(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of such title is amended—

(1) in subsection (a)—

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

"(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of

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

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

(B) in paragraph (3)(A)(i), by striking ''$100,000,000'' and inserting ''$50,000,000''; and

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

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

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

(1) in subsection (a)—

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

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

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

(2) in subsection (b)—

(A) by inserting ''the lesser of'' after ''exceed'' and ''or the amount of the senior project obligations'' after ''costs'';

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

(C) by striking ''marketable'' in paragraph (4); and

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

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

(1) in subsection (b)—

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

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

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

(2) in subsection (c)—

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

(B) by striking paragraph (3).

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

"§ 185. Program administration

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

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

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

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

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

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

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

"§ 188. Funding

''(a) FUNDING.—

''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $130,000,000 for

each of fiscal years 2004 through 2009 to carry out this subchapter.

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

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

"(b) CONTRACT AUTHORITY.—

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

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

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

(g) Section 189 of such title is repealed.

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

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

"185. Program administration.";

and

(2) striking the item relating to section 189.

SEC. 1305. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT FACILITATION.

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

SEC. 1306. COMMERCIALIZED REST AREA PILOT PROJECTS.

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

(b) COMMERCIAL OPERATIONS.—

(1) ELIGIBILITY.—Notwithstanding section 111 of title 23 United States Code, and the project

agreements required by section 111(a) and executed between the States and the Federal Highway Administration, the Secretary shall permit the rest areas in the pilot projects to include commercial operations that provide goods, services, and information that benefit the traveling public and the commercial motor carrier industry, and as deemed appropriate by the States, including—

(A) commercial advertising and displays if such advertising and media displays are—

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

(ii) not legible from the main traveled way;

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

(C) State promotional or tourism-oriented items.

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

(c) PARTICIPATION.—Participation in this pilot project is limited to those proposals submitted to the Sec-

retary for approval during the one year period after the date of enactment of this Act.

(d) PROPOSALS.—

(1) The State proposals shall at a minimum—

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

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

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

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

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

(e) LIMITATION ON USE OF REVENUES.—Any revenues received by a State from the commercial operations in a rest area under this section that are in excess of amounts required for the proper operation and mainte-

nance of the rest area shall be used by the State for projects eligible under title 23, United States Code.

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

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

SEC. 1307. HIGHWAY USE TAX EVASION PROJECTS.

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

(1) INTERGOVERNMENTAL ENFORCEMENT EFFORTS.—Paragraph (2) is amended by inserting a comma after ''Secretary'' and adding ''except that for each of fiscal years 2004 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training''.

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

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

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

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

(C) by adding at the end the following:

''(H) to support efforts between States and tribes to address issues related to state motor fuel taxes; and

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

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

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

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

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

(2) in paragraph (2)—

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

(B) in subparagraph (A), by striking ''develop'' and inserting ''complete'';

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

(D) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

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

''(D) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for the

completion, operation, and maintenance of the excise summary terminal activity reporting system.''; and

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

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

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

''(d) PIPELINE, VESSEL, AND BARGE REGISTRATION SYSTEM.—

''(1) IN GENERAL.—Not later than 90 days after enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development, operation, and maintenance of a registration

system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel.

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

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

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

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

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

"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2004 through 2009, the Secretary shall make funds available to the Internal Revenue Service to com-

plete, operate, and maintain a registration system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel in accordance with this subsection.

"(e) HEAVY VEHICLE USE TAX PAYMENT DATABASE.—

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

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

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

"(B) the Commissioner of the Internal Revenue Service shall submit and the Secretary shall approve a budget and project plan for es-

tablishment, operation, and maintenance of the electronic database;

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

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

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

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

(d) ALLOCATIONS.—Of the amounts authorized to be appropriated under section 1101(a)(14) of this Act for

Highway Use Tax Evasion Projects for each of fiscal years 2004 through 2009, $4,500,000 shall be allocated to the States, and for fiscal year 2004, $20,050,000 shall be allocated to the Internal Revenue Service, of which $10,500,000 shall be dedicated to the excise summary terminal activity reporting system, for each of fiscal years 2005 and 2006, $48,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,00 shall be dedicated to the excise summary terminal activity reporting system, for fiscal year 2007, $38,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,00 shall be dedicated to the excise summary terminal activity reporting system, and for each of fiscal years 2008 and 2009, $4,500,000 shall be allocated to the Internal Revenue Service, which shall be used for the excise summary terminal activity reporting system.

Subtitle D—Program Efficiencies and Improvements—Safety

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

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

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

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

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

(2) MEMBERSHIP.—

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

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

(ii) the Administrators of the Federal Highway Administration; the National Highway Traffic Safety Administration; the Federal Motor Carrier Safety Administration; and the Federal Railroad Adminis-

tration, or the Administrators' delegates; and

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

(B) APPOINTMENT.—The Secretary shall select the individuals to be appointed under this subsection on the basis of their knowledge, expertise, or experience related to highway safety. Half of the appointments shall be made from nominees submitted by the Committee on Environment and Public Works and the Committee on Commerce, Science and Transportation of the Senate and the other half from the nominees submitted by the Committee on Transpor-

tation and Infrastructure of the House of Representatives. Each of these committees shall nominate 20 individuals qualified to serve on the Commission.

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

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

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

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

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

(4) SPECIFIC MATTERS TO BE ADDRESSED.—The national highway safety goal study conducted by the Commission shall examine the roles of highway infrastructure, drivers, and vehicles in fatalities on all public roads; identify high risk areas and activities associated with the greatest numbers of highway fatalities; examine the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities and recommend ways to strengthen highway safety partnerships; and identify measures that will save the most lives both long term and short term. The study shall consider, among other things, the findings, conclusions, and recommendations of highway safety studies and research conducted by the Transportation Research Board, including studies related to implementation of the American Association of State Highway and Transportation Officials' Strategic Highway Safety Plan.

(5) REPORTS TO CONGRESS.—

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

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

(6) TERMINATION OF COMMISSION.—The Commission shall terminate on the 180th day following

the date of transmittal of the final report to Congress under paragraph (5)(B) of this subsection. By the 180th day, all records and papers of the Commission shall be delivered to the Administrator of the General Services Administration for deposit in the National Archives.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) up to $3,000,000 for fiscal year 2004, $1,000,000 for fiscal year 2005, $1,000,000 for fiscal year 2006, $1,000,000 for fiscal year 2007, $500,000 for fiscal year 2008, and $500,000 for fiscal year 2009 for the purposes of carrying out this subsection.

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

SEC. 1402. HIGHWAY SAFETY IMPROVEMENT PROGRAM; FLEXIBILITY FOR SAFETY INITIATIVES.

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

"§ 150. Highway Safety Improvement Program

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

''(b) PROGRAM.—

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

form safety problem identification and countermeasure analysis.

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

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

"(B) DATA IMPROVEMENT PROGRAM.—Each State shall, as appropriate, advance its capabilities for traffic records data collection, analysis, and integration with other sources of safety data such as roadway inventories. Such a data improvement program shall be complementary to the programs supported by sections 402 and 412 of this title; include all public roads; and contain provisions to identify haz-

ardous locations, sections, and elements on these public roads that constitute a danger to motorists, bicyclists, and pedestrians.

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

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

"(c) REPORTS.—Each State shall report to the Secretary on progress being made to implement safety improvement projects under this section and the effective-

ness of such improvements. The Secretary shall establish the content and schedule for such reports.

"(d) ELIGIBLE PROJECTS.—

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

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

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

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

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

"(h) USE OF OTHER FUNDING FOR SAFETY.—Nothing in this section shall be interpreted to prohibit the use of funds made available under other sections of this title for highway safety improvement projects, and States are to be encouraged to address the full scope of their safety

needs and opportunities by using other funds unless provisions exist that prohibit such use.''.

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

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

(2) by inserting in subsection (b) ''the Highway Safety Improvement Program,'' after ''Improvement Program,''; and

(3) by adding at the end of subsection (b) the following new paragraph:

''(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—For the Highway Safety Improvement Program, in accordance with the following formula:

''(i) 25 percent of the apportionments in the ratio that—

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

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

"(ii) 40 percent of the apportionments in the ratio that—

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

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

"(iii) 35 percent of the apportionments in the ratio that—

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

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

"(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State

shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.''.

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

(1) by repealing section 152;

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

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

''§ 151. Flexibility for safety initiatives

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

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

''(1) be based on a collaborative process that includes the State Department of Transportation, the Governor's Representative for Highway Safety, per-

sons responsible for administering section 130 of this title at the State level, and other major State and local safety stakeholders, including Operation Lifesaver;

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

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

''(4) be certified by the Secretary, in consultation with the Federal Highway Administration and the National Highway Traffic Safety Administration, as based on a comprehensive, collaborative process, and effective analyses of State crash data.

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

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

''(e) FLEXIBLE FUNDING.—A State that receives funds under section 150 shall use such funds for projects

eligible under such section, except that up to 50 percent of such funds may be used for activities eligible for assistance under section 402 of this title that are consistent with the State's strategic highway safety plan and not otherwise eligible for assistance under section 150.''.

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

(e) CONFORMING AMENDMENTS.—

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

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

(B) by renumbering ''151. National bridge inspection program.'' as ''152''; and

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

''150. Highway Safety Improvement Program.
''151. Flexibility for safety initiatives.''.

(2) Section 130 of such title is amended—

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

(B) in subsection (f), as redesignated by this Act, by striking ''authorized to be appropriated to carry out this section'' and inserting ''made available as provided under section 150 of this title to carry out this section''.

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

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

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

SEC. 1403. OPERATION LIFESAVER.

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

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

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

Subtitle E—Program Efficiencies and Improvements—Planning

SEC. 1501. METROPOLITAN PLANNING.

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

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

SEC. 1502. STATEWIDE PLANNING.

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

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

SEC. 1503. STATE PLANNING AND RESEARCH.

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

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

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

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

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

"(i) STATE PLANNING AND RESEARCH.—

"(1) IN GENERAL.—Two and ½ percent of the sums apportioned to a State for each fiscal year under this section (other than subsections (f) and (h)) and under sections 105 and 144 of this title shall be available for expenditure by the State, in consultation with the Secretary, only for the following purposes:

"(A) Engineering and economic surveys and investigations.

"(B) The planning of future highway and local public transportation systems, the planning of the financing of such systems, and metropolitan and statewide planning under sections 134 and 135 of this title, including freight planning, safety planning, transportation systems management and operations planning, transportation-related land use planning, and transportation-related growth management activities within these planning processes and

planning capacity building activities described in section 104(j) of this title.

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

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

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

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

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

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

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

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

"(3) MINIMUM EXPENDITURES FOR IMPROVING THE QUALITY OF COLLECTION AND REPORTING OF STRATEGIC SURFACE TRANSPORTATION DATA.—

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

"(B) WAIVERS.—The Secretary may waive the application of subparagraph (A) with respect to a State for a fiscal year if the State certifies to the Secretary for the fiscal year that the State is collecting and reporting strategic data consistent with quality assurance guidelines developed cooperatively with the States and the Secretary approves such certification. If such waiver is approved, the funds may be used for the activities described in paragraph (1) of this subsection.

"(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to paragraph (1) shall be matched in accordance with section 120(b) unless the Secretary determines

that the interests of the Federal-aid highway program would be best served without such matching.

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

SEC. 1504. CRITICAL REAL PROPERTY ACQUISITION.

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

"(d) CRITICAL REAL PROPERTY ACQUISITION.—

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

"(2) The Federal share payable of the costs described in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, prior to acquisition, the State demonstrates to the Secretary, and the Secretary determines, that the property is offered for sale on the

open market, that the State will comply fully with the Uniform Relocation Assistance and Real Property Acquisition Policies Act in acquiring the property, and that immediate acquisition of the property is critical because either—

"(A) normal appraisal techniques show that the property's value is increasing significantly;

"(B) there is an imminent threat of development or redevelopment of the property; or

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

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

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

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

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

SEC. 1505. PLANNING CAPACITY BUILDING INITIATIVE.

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

"(j) PLANNING CAPACITY BUILDING INITIATIVE.—

"(1) IN GENERAL.—The Secretary shall establish a planning capacity building initiative to support enhancements in transportation planning, in order to—

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

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

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

"(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support homeland security planning, performance based planning, safety planning, operations planning,

freight planning, and integration of environment and planning.

"(3) USE OF FUNDS.—Funds authorized for this program may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use these funds independently or make grants to, or enter into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.

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

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

"(6) ADMINISTRATION.—This initiative shall be administered by the Federal Highway Administration in cooperation with the Federal Transit Administration.".

Subtitle F—Program Efficiencies and Improvements—Environment

SEC. 1601. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

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

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

(2) in subsection (1)(A), by striking "(other than clause (xvi) of such section)";

(3) in paragraph (1)(A)(ii), by inserting "by providing new or enhanced transportation facilities or services to further reduce emissions" after "area";

(4) in paragraph (1)(B), by inserting "or" at the end after "section;";

(5) in paragraph (2), by inserting ''or program'' after ''and the project'', and by striking ''have air quality benefits;'' and inserting ''reduce emissions; or'';

(6) in paragraph (3), by—

''(A) inserting ''if'' after ''(3)'';

''(B) striking ''contribute to the attainment of a national ambient air quality standard'' and inserting ''reduce emissions'';

''(C) striking the comma after ''traveled'' and inserting ''or''; and

''(D) inserting ''through technological improvements such as anti-idling equipment and diesel retrofits for trucks, school buses, transit buses and other vehicles'' after ''consumption,'';

(7) in paragraph (4), by inserting ''if the project or program is'' after ''(4)'', and by striking ''contribute to the attainment of a national ambient air quality standard'' and inserting ''reduce emissions'';

(8) in paragraph (5), by striking ''that are eligible for assistance under this section on the day before the date of enactment of this paragraph'' and inserting ''that will reduce emissions''; and

(9) in the final unnumbered paragraph, by striking the second sentence.

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

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

''(f) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emissions reductions from proposed congestion mitigation and air quality improvement programs and projects.''.

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

''(g) EVALUATION AND ASSESSMENT OF PROJECTS.—

''(1) EVALUATION AND ASSESSMENT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects fund-

ed under the Congestion Mitigation and Air Quality Improvement Program for their actual impact on emissions, and congestion levels and to assure effective program implementation. Using appropriate assessments of CMAQ-funded projects, and results from other research, the Secretary shall maintain a cumulative database on these impacts for broad dissemination.

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

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

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

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

(1) in paragraph (2)(B), by striking "or" after "ozone" and inserting a comma, and by inserting ",

or fine particulate matter (PM–2.5)'' after ''carbon monoxide'';

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

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

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

(4) in paragraph (2)(B)(vii), by inserting ''for ozone'' after ''maintenance area'', and striking ''for ozone'' after ''section 149(b)'' and inserting ''or for PM–2.5'';

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

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

''(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but

is an area designated nonattainment under the PM–2.5 standard.''; (6) by amending paragraph (2)(C) to read as follows:

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

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

''(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for

ozone, carbon monoxide or both as described in section 149(b), any county within the area was also designated under the PM–2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.''.

SEC. 1602. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

(a) POLICY AND PURPOSE.—

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

(A) Assign responsibilities at the right level.

(B) Use collaborative processes to break down barriers and find solutions.

(C) Move to a performance-based system.

(D) Separate subjective choices from objective data gathering.

(E) Pursue economic incentives whenever appropriate.

(F) Ensure environmental understanding.

(G) Make sure environmental decisions are fully informed.

(H) Use appropriate geographic boundaries for environmental problems.

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

(b) COORDINATED ENVIRONMENTAL REVIEW PROCESS.—

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

(A) the preparation of an environmental impact statement or environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), except that the

Secretary may decide not to apply this section to the preparation of an environmental assessment under such Act; or

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

(2) MEMORANDUM OF UNDERSTANDING.—

(A) IN GENERAL.—The coordinated environmental review process may be specified for a particular project, class of projects, or program and shall ensure that, whenever practicable (as specified in this section), all environmental reviews, analyses, opinions, and any permits, licenses, or approvals that must be issued or made by any Federal agency for the project concerned shall be conducted concurrently and completed within a cooperatively determined time period. Such process for a project, class of projects, or program may be incorporated into a memorandum of understanding between the Department of Transportation and affected Federal agencies (and, where appropriate, State and local agencies and federally recognized tribes).

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

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

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

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

(B) may be required by Federal law to independently—

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

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

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

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

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

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

(II) all other independent Federal agency environmental analyses, reviews, opinions, and decisions on any permits, licenses, and approvals that must be issued or made for the project; such that each such Federal agency's review shall be undertaken and completed within such established time periods for review; or

(ii) may enter into an agreement to establish such time periods for review with respect to a class of projects or programs; and

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

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

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

(d) CLARIFICATION REGARDING ENVIRONMENTAL IMPACT STATEMENTS PREPARED BY STATE AND LOCAL TRANSPORTATION AGENCIES.—Any project sponsor that is a State or local governmental entity eligible to receive funds under this Act, chapter I of title 23, United States Code; or chapter 53 of title 49, United States Code, may, at the discretion of the Secretary, serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, et seq.), and may prepare any such environmental documents required in support of any action or approval by the Secretary, provided that the Department furnishes guidance in such preparation and independently evaluates such document, and provided that the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Sec-

retary's action or approval results in Federal funding. The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in such environmental document, or that the document is appropriately supplemented if project changes become necessary. Any such environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.

(e) DISPUTE RESOLUTION.—When the Secretary determines that a Federal agency which is subject to a time period under this section for its environmental review has failed to complete its review, analysis, opinion, or decision on issuing any permit, license, or approval within the established time period or within any agreed-upon extension to such time period, the Secretary may, after notice and consultation with such agency, close the record on the matter before the Secretary. If the Secretary finds, after timely compliance with this section, that an environmental issue related to the project over which an affected Federal agency has jurisdiction under Federal law has not been resolved, the Secretary and the head of the Federal agency shall resolve the matter not later than 30 days after the

date of the finding by the Secretary. The dispute resolution procedures established pursuant to this subsection may be initiated by the Secretary or by the Governor of any State in which a highway construction or public transit project is located, or by the head of any Federal agency subject to the time period under this subsection.

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

(g) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

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

(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

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

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

(h) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

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

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

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

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

SEC. 1603. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

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

"§ 138. Assumption of responsibility for categorical exclusions

''(a) CATEGORICAL EXCLUSION DETERMINATIONS.—Upon mutual agreement, the Secretary may assign and a State may assume responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality, or other successor law or regulation. Such determinations shall be made by a State pursuant to criteria established by the Secretary and only for types of activities specifically designated by the Secretary. Such criteria shall include provision for public availability of information consistent with the Freedom of Information Act (5 U.S.C. 552).

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

"(c) AGREEMENTS.—The Secretary and the State shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which such assignments are to be made. Such memorandums of understanding shall be established for periods of no more than three years. In the memorandum of understanding the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement

of any responsibility of the Secretary it may assume. The Secretary shall monitor the State department of transportation's compliance with the memorandum of understanding as well as the effectiveness of the delegation, and will take into account the State's performance in deciding whether and under what conditions to renew a memorandum of understanding.

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

''(e) STATE SUBJECT TO FEDERAL LAWS.—For purposes of assuming theSecretary's responsibilities under this section, the State agency signing the agreement in subsection (c) is deemed to be a Federal agency to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act, under this title, and under any other Federal law.''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(iv) The ability to mitigate adverse effects.

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

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

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

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

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

"(e) The requirements of this section are deemed to be satisfied where the treatment of an historic site (other

than a National Historic Landmark) has been agreed upon in accordance with Section 106 of the National Historic Preservation Act (16 U.S.C. 470f). The Secretary, in consultation with the Advisory Council on Historic Preservation, shall develop administrative procedures to review the implementation of this subsection to ensure that the objectives of the National Historic Preservation Act are being met.

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

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

''(3) Such requests under paragraph (1) shall be approved only for the additional amounts that the Secretary

determines are necessary for a State historic preservation office, tribal historic preservation office, or the Advisory Council on Historic Preservation to expedite the review and consultation process and only where the Secretary determines that such additional amounts will permit completion of the historic preservation process in less than the time customarily required for such process.''.

SEC. 1605. NATIONAL SCENIC BYWAYS PROGRAM.

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

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

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

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

(4) in subsection (b)(2)(B), by inserting a comma after ''Byway'' and by striking ''or All-Amer-

ican Road'' and inserting ''All-American Road, or one of America's Byways''; and

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

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

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

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

''(d) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—

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

''(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may make grants to or enter into contracts, cooperative agreements, and other transactions with any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person, including the center for national sce-

nic byways in Duluth, Minnesota, to carry out the provisions of this subsection.

"(3) FUNDS.—The Secretary may use funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

"(4) PRIORITY.—The Secretary shall give priority to partnerships that leverage private, Federal , or other public funds for research, technical assistance, marketing and promotion."; and

(3) by adding the following at the end of subsection (g): "The Federal share of the cost of projects or activities under subsection (d) may be up to 100 percent.".

SEC. 1606. RECREATIONAL TRAILS PROGRAM.

(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended by striking "research and technical assistance under the recreational trails program and for the administration of the National Recreational Trails Advisory Committee" and inserting "research, technical assistance, and training under the recreational trails program".

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

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

"(c) STATE RESPONSIBILITIES.—

"(1) ELIGIBILITY.—To be eligible for apportionments under this section—

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

"(B) the State shall establish a State recreational trail committee that—

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

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

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

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

"(2) OBLIGATION REQUIREMENT.—If a State does not meet the committee requirements within a fiscal year, it is not eligible for an apportionment in the following fiscal year.";

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

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

"(A) maintenance and restoration of existing recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16

U.S.C. 460*l*–4 et seq.) and that is in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

"(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et. seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et. seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

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

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

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

"(C) USE OF YOUTH CONSERVATION OR SERVICE CORPS.—A State shall make available not less than 10 percent of its apportionments for grants, cooperative agreements, or contracts with qualified youth conservation or service

corps to perform recreational trails program activities.'';

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

(5) by amending subsection (f)—

(A) in paragraph (1)—

(i) by inserting ''and the Federal share of the administrative costs of a State'' after ''project''; and

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

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

(C) in paragraph (2)(B), by inserting ''sponsoring the project'' after ''Federal agency'';

(D) by striking paragraph (5);

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

(F) by inserting after paragraph (3)—

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

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

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

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

"(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under subsections (d)(2)(A) through (H) may allow pre-approval planning and environmental compliance costs to be credited toward the non-Federal share in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval."; and

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

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

SEC. 1607. EXEMPTION OF THE INTERSTATE SYSTEM.

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

"(5) EXEMPTION OF THE INTERSTATE SYSTEM.—The Interstate Highway System, or any portion thereof, as designated pursuant to subsection 103(c) of this title, shall not be considered an historic site of national, State or local significance for purposes 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 resource on, or eligible for listing in, the National Register of Historic Places. At the discretion of the Secretary, with the advice of the Department of the Interior, individual elements of the Interstate Highway System may receive the protection of section 106 or section 110 of the National Historic Preservation Act (16 U.S.C. 470f and 470h–2).".

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

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

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

(A) by striking ''1990'' and inserting ''2000''; and

(B) by striking ''101–640'' and inserting ''106–541''.

(2) STATE RESPONSIBILITY.—Section 103 (b)(6) is further amended in subparagraph (M) by inserting ''as determined by the State'' after ''to the maximum extent practicable''.

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

''(Q) Environmental restoration and pollution abatement to minimize or mitigate impacts of any transportation project funded under this title (including the retrofit or construction of storm water treatment systems to meet State and Federal National Pollutant Discharge

Elimination System requirements under Section 402 of the Clean Water Act) to address water pollution or environmental degradation caused or contributed to by transportation facilities. When transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.

"(R) In accordance with all applicable Federal law (including applicable Federal regulations), participation in the control of invasive plant species and the establishment of native species related to projects funded under this title, which may include participation in statewide inventories of both invasive and desirable plant species and regional native plant habitat conservation and mitigation, and restoration plans. Contributions to the measures described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of

project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including applicable Federal regulations) and State transportation planning processes.

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

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

(1) TECHNICAL CORRECTIONS.—Section 133 (b)(11) of title 23, is amended—

(A) by striking "1990" and inserting "2000"; and

(B) by striking "101–640" and inserting "106–541";

(2) STATE RESPONSIBILITY.—Section 133 (b)(11) is further amended by inserting "determined by the State" after "to the maximum extent practicable".

(3) ELIGIBLE PROJECTS FOR SURFACE TRANSPORTATION PROGRAM.—

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

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

(B) INVASIVE SPECIES CONTROL AND BROWNFIELDS REMEDIATION EFFORTS.—Section 133(b) of such title, as amended by this

Act, is further amended by adding at the end the following new paragraphs:

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

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

SEC. 1609. STANDARDS.

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

(1) striking ''and'' at the end of paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting "; and"; and

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

"(3) consider the preservation, historic, scenic, natural environment, and community values.".

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

"(p) CONTEXT SENSITIVE DESIGN.—

"(1) The Secretary shall encourage States to design projects funded under title 23 to—

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

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

"(C) provide for consideration of the context of the locality;

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

"(E) comply with subsection (a).

"(2) Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to

achieve the criteria of subparagraphs (A) through (E).''.

SEC. 1610. USE OF HOV LANES.

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

''(a) HIGH OCCUPANCY VEHICLE (HOV) PASSENGER REQUIREMENTS.—

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

''(2) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—

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

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

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

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

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

"(II) establish requirements for labeling qualifying vehicles and procedures for enforcing such vehicles;

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

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

"(iii) As used in this subparagraph, the term "low emission and energy-effi-

cient vehicles'' means vehicles that have been certified—

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

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

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

''(D) TOLLING OF VEHICLES.—Responsible agencies may permit vehicles, in addition to

those vehicles described in paragraphs (A), (B), and (E) that do not satisfy the established occupancy requirements, to use an HOV facility only if they charge such vehicles a toll. The authority of an agency to impose a toll shall be subject to section 129 of this title. Any agency electing to toll such vehicles shall also—

"(i) establish a program that addresses how motorists can enroll and participate;

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

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

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

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

"(E) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.—

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

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

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

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

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

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

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

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

"(A) PERFORMANCE MONITORING, EVALUATION, AND REPORTING.—Responsible agencies shall be required to establish, manage, and support a performance monitoring, evaluation, and reporting program if they permit any of the exceptions specified in paragraph (a)(2). This

program shall continuously monitor, assess, and report on the impacts that any of these specific types of allowed vehicles may have on the operation of individual HOV facilities and the entire HOV system.

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

SEC. 1611. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

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

(1) in subsection (a), by inserting ''pedestrian and'' after ''safe'';

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

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

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

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

''(5) SHARED USE PATH.—The term ''shared use path'' means a multi-use trail or other path, physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way, and usable for transportation purposes. Shared use paths may be used by pedestrians, bicyclists, skat-

ers, equestrians, and other nonmotorized users.''; and

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

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

''(l) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

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

''(A) operate a national bicycle and pedestrian clearinghouse;

''(B) develop information and educational programs; and

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

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

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

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

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

SEC. 1612. TRANSPORTATION, ENERGY, AND ENVIRONMENT.

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

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

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

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

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

(d) GRANTS, COOPERATIVE AGREEMENTS AND CONTRACTS.—The Secretary may carry out this program independently or by making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association, nonprofit or for-profit corporation, or institution of higher education.

(e) FUNDING.—

(1) HIGHWAY ACCOUNT.—

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

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

(2) MASS TRANSIT ACCOUNT.—

(A) FUNDING.—There is authorized to be appropriated from the Mass Transit Account of the Highway Trust Fund to carry out this section $400,000 for fiscal year 2004, $300,000 for fiscal year 2005, $300,000 for fiscal year

2006, $300,000 for fiscal year 2007, $300,000 for fiscal year 2008, and $300,000 for fiscal year 2009.

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

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

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

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

"(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—Notwithstanding the prohibition on commercial establishments set forth in subsection (a), any State may permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recre-

ation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in such State, and may charge, or permit charges for the use of such facilities. The exclusive purpose of such facilities or technologies shall be to enable operators of such vehicles to turn off their engines while parked and still have heating, air conditioning, electricity, and communication services in the vehicle.''.

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

(a) IN GENERAL.—Section 317 of title 23, United States Code, is amended to read as follows:

''§ 317. Appropriation for transportation purposes of lands or interest in lands owned by the United States

''(a) IN GENERAL.—If the Secretary determines that any part of the lands or interests in land owned by the United States are reasonably necessary for any project administered under this title or as a source for materials for such a project, the Secretary is authorized to file with the Secretary of the Department supervising the administration of such lands or interests in lands a description and a map showing the portion of such lands or interests in lands which it is necessary to appropriate. The Sec-

retary of such Department shall have a period of up to four months to review the proposed appropriation and to designate reasonable mitigation measures necessary to protect the adjacent federal lands from adverse environmental impacts, or to certify that the proposed appropriation is contrary to the purposes for which such lands or materials have been reserved. If no such certification is received, the Secretary may appropriate and transfer such lands or interests in lands to the State transportation department, or its nominee, subject to such reasonable mitigation measures designated above. If at any time the need for such lands or materials for transportation purposes shall no longer exist, notice of the fact shall be given by the State transportation department to the Secretary and the Secretary of the Department from which they had been appropriated. Such lands or materials may, at the discretion of the Secretary of the Department from which they had been appropriated or its designee, revert to the United States, under the control of such Secretary, or its designee. Unless otherwise instructed by the Secretary, prior to any such reversion the State transportation department shall restore the land to its former condition.

"(b) PRIOR RESTRICTIONS OR ENCUMBRANCES.—Notwithstanding any other provision of law, the acquisition and use of land under this section may proceed irre-

spective of any prior deed restrictions or other encumbrances that were imposed as a condition on the receipt of Federal funds.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is revised by amending the item relating to section 317 to read as follows:

''317. Appropriation for transportation purposes of lands or interest in lands owned by the United States.''.

SEC. 1615. TOLL PROGRAMS.

(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Sec. 1216(b) of the Transportation Equity Act for the 21st Century is amended—

(1) in paragraph (1), by striking ''that could not otherwise be adequately maintained or functionally improved without the collection of tolls'';

(2) in paragraph (3), by striking subparagraph (C) and inserting the following:

''(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project.''; and

(3) in paragraph (4),

(A) by striking subparagraph (A) and inserting the following:

"(A) the State's analysis showing that financing the reconstruction or rehabilitation of this facility with the collection of tolls under this program is the most efficient, economical, or expeditious way to advance the project is reasonable;";

(B) by striking subparagraph (B) and inserting the following:

"(B) the facility needs reconstruction or rehabilitation;";

(C) by striking subparagraph (C); and

(D) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(b) VARIABLE TOLL PRICING PROGRAM.—

(1) ESTABLISHMENT.—The Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or public authority to toll any highway, bridge, or tunnel, including facilities on the Interstate System, to manage existing high levels of congestion or reduce emissions in a nonattainment area or maintenance area.

(2) BASIC PROGRAM.—The following conditions apply to any variable toll pricing program established under this section:

(A) LIMITATION ON USE OF REVENUES.—All toll revenues received from the operation of the toll facility shall be used first for debt service, reasonable return on investment of any private financing, and the costs necessary for proper operation and maintenance of the toll facility (including reconstruction, resurfacing, restoration, and rehabilitation). If the State or public authority certifies annually that the tolled facility is being adequately maintained, then the State or public authority may use any excess toll revenues for projects eligible for Federal assistance under title 23, United States Code.

(B) AGREEMENT.—Before the Secretary may permit tolling under this subsection, and for each facility that may be tolled, the Secretary and the State or public authority must enter into an agreement providing for the conditions in subparagraphs (A) and (C) of this paragraph. The agreement shall terminate upon the decision of the State or public authority to discontinue its variable tolling program for that facility. If there is any debt outstanding on the facility at the time the decision is made to dis-

continue the program, the facility may continue to be tolled in accordance with the terms of the agreement until the debt is retired.

(C) REQUIREMENTS.—

(i) VARIABLE PRICE REQUIREMENT.—The Secretary shall require, for each facility that may be tolled under this subsection, that the tolls vary in price according to time of day, as appropriate, to manage congestion or to improve air quality.

(ii) HOV PASSENGER REQUIREMENTS.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

(D) LIMITATION ON FEDERAL SHARE.—The Federal share payable for projects on the tolled facility, including projects to install toll collection facilities, shall be a percentage deter-

mined by the State but shall not exceed 80 percent.

(3) ELIGIBILITY.—To be eligible to participate in the program, a State or public authority shall provide to the Secretary—

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

(B) an identification of the goals sought to be achieved and the performance measures that would be used to gauge the success made toward reaching those goals; and

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

(4) DEFINITIONS.—

(A) MAINTENANCE AREA.—The term ''maintenance area'' has the same meaning given the term under section 101 of title 23, United States Code.

(B) NONATTAINMENT AREA.—The term ''nonattainment area'' has the same meaning given the term under section 7501 of title 42, United States Code.

(c) REPEAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act, as amended by

section 1216(a) of the Transportation Equity Act for the 21st Century, is repealed. Notwithstanding the repeal of section 1012(b), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the date of enactment of this Act to continue.

SEC. 1616. OZONE STANDARDS, PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE PROGRAM.

(a) TITLE.—The heading of title VI of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 463; June 9, 1998) is amended to read as follows:

"TITLE VI—OZONE STANDARDS, PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE PROGRAM"

(b) FINDINGS AND PURPOSE.—Section 6101 of such Act is amended to read as follows:

"§ 6101. Findings and Purpose

''(a) The Congress finds that—

''(1) the fine particle (PM–2.5) standards promulgated by the Administrator of the Environmental Protection Agency (referred to in this title as ''Ad-

ministrator'') in July 1997 were established to protect the public health and welfare;

''(2) there is a continuing need for PM–2.5 air quality monitoring data;

''(3) with three years of PM–2.5 air quality monitoring data for all areas expected to be available by 2003 it is important to move forward to designate areas as attainment or nonattainment and proceed with implementation of these standards;

''(4) it will be beneficial to States to develop and submit implementation plans for the PM–2.5 standards and the regional haze program at the same time; and

''(5) Western States that participated in the Grand Canyon Visibility Transport Commission should be permitted to submit plans in 2003 to implement recommendations set forth in the Commission's report.

''(b) The purposes of this title are—

''(1) to ensure the availability of PM–2.5 air quality monitoring data;

''(2) to establish a deadline for the designation of areas for the PM–2.5 standards; and

''(3) to ensure that States are able to develop PM–2.5 and regional haze implementation plans at

the same time for all areas within a State, while continuing to allow nine Western States the option of submitting regional haze plans in 2003 to implement regional haze requirements based on the 1996 recommendations of the Grand Canyon Visibility Transport Commission.''.

(c) PARTICULATE MATTER AND REGIONAL HAZE.—

(1) The heading of section 6102 of the Transportation Equity Act for the 21st Century is amended to read as follows:

"§ 6102. Particulate matter and regional haze programs"

(2) Section 6102(c) of such Act is amended to read as follows:

''(c)(1) The Governors shall be required to submit designations referred to in section 107(d)(1) of the Clean Air Act (42 U.S.C. 7407(d)(1)) for each area following promulgation of the July 1997 PM–2.5 national ambient air quality standard by September 30, 2003, based on air quality monitoring data collected in accordance with any applicable Federal reference methods for the relevant areas. Only data from the monitoring network designated in subsection (a) and other Federal reference method PM–2.5 monitors shall be considered for such designations. Nothing in the previous sentence shall be construed as af-

fecting the Governor's authority to designate an area initially as nonattainment, and the Administrator's authority to promulgate the designation of an area as nonattainment, under section 107(d)(1) of the Clean Air Act, based on its contribution to ambient air quality in a nearby nonattainment area.

"(2)(A) Each State shall submit, for the entire State, the State implementation plan revisions to meet the requirements promulgated by the Administrator under section 169B(e)(1) of the Clean Air Act (42 U.S.C. 7492(e)(1)) (hereinafter in this paragraph referred to as 'the regional haze requirements') by 3 years after the date the Administrator promulgates the designations referred to in subsection (d) for such State.

"(B) The provisions of subparagraph (A) of this paragraph shall not preclude the implementation of the agreements and recommendations set forth in the Grand Canyon Visibility Transport Commission Report dated June 1996. These provisions shall not preclude the submission of State implementation plan revisions by the States of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, or Wyoming by December 31, 2003, for implementation of the regional haze requirements as they apply to such States. Each of the aforementioned States submitting such plan revisions shall also

submit statewide implementation plan revisions, as required under subparagraph (A), to address, as necessary, any additional mandatory Class I Federal areas not addressed by the revisions submitted pursuant to the preceding sentence.''.

(3) Section 169B(e)(2) of the Clean Air Act (42 U.S.C. 7492(e)(2)) is repealed.

(4) Section 6102(d) of the Transportation Equity Act for the 21st Century is amended to read as follows:

''(d) Notwithstanding any other provision of law, the Administrator shall promulgate the designations referred to in subsection (d) of section 107 of the Clean Air Act for each area of each State for the July 1997 PM–2.5 national ambient air quality standards by December 31, 2004.''.

(d) CONFORMING AMENDMENT.—Section 1(b) of the Transportation Equity Act for the 21st Century is amended in the Table of Contents—

(1) in the heading for title VI, by striking ''OZONE AND PARTICULATE MATTER STANDARDS'' and inserting ''OZONE STANDARDS, PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE PROGRAM''; and

(2) in the item relating to section 6102, by striking ''monitoring program'' and inserting ''and regional haze programs''.

SEC. 1617. INDEMNIFICATION ON CERTAIN RAILBANKED PROJECTS.

Where, pursuant to a final judgment, a Federal court finds the United States liable by operation of section 8(d) the National Trails System Act (enacted by section 208 of Pub. L. 98–11, 97 Stat. 48) (16 U.S.C. 1247(d)), for a taking of property under the Fifth Amendment to the United States Constitution, a State that has received funds, after the date of enactment of this Act, under a Federal-aid highway program established under title 23, United States Code, and that has used a portion of those funds to acquire, develop, maintain or improve a railroad right-of-way that is the subject of the judgment, shall indemnify the United States up to the lesser amount of the judgment awarded (including attorney fees) or the Federal-aid highway program funds received in connection with that railroad right-of-way.

Subtitle G—Program Efficiencies and Improvements—Operations

SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by inserting ''and intermodal operations to enhance security'' after ''program'' in the first sentence; and

(B) in subparagraph (G), by striking ''traffic control systems,'';

(2) in paragraph (18), as redesignated by this Act, by inserting ''costs incurred by transportation agencies attributed to operation of technology used to monitor critical transportation infrastructure for security purposes,'' after ''rent,'' and by inserting ''transportation systems management and operations and'' after ''with'';

(3) in paragraph (19)(A)(i), as redesignated by this Act, by inserting—

(A) ''transportation system management and operations, including,'' after ''for'';

(B) ''and transportation security'' after ''installation of traffic''; and

(C) ''equipment and programs for transportation response to manmade and natural disasters,'' after ''incident management programs,'';

(4) by redesignating paragraphs (39) and (40), as redesignated by this Act, as paragraphs (40) and (41), respectively; and

(5) by inserting new paragraph (39) after paragraph (38), as follows:

''(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multi- and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of Federal-aid highways. Transportation systems management and operations includes regional operations collaboration and coordination activities between transportation and public safety agencies, and improvements such as traffic detection and surveillance, arterial management, freeway management, demand management, work zone management, emergency management, electronic toll collection, auto-

mated enforcement, traffic incident management, roadway weather management, traveler information services, commercial vehicle operations, traffic control, freight management, and coordination of highway, rail, transit, bicycle, and pedestrian operations.''.

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of such title is amended by inserting ''improve transportation systems management and operations,'' after ''intersections,''.

(c) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of such title, as amended by section 1608 of this Act, is further amended by adding at the end the following:

''(17) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.''.

(d) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—Chapter 1 of such title, as amended by this Act, is further amended by inserting the following new section after section 164:

"§ 165. Transportation systems management and operations

"(a) AUTHORITY.—To ensure efficient and effective transportation systems management and operations on Federal-aid highways, through collaboration, coordination, and real-time information sharing, at a regional level, between transportation system managers and operators, public safety officials, and the general public, and to manage and operate Federal-aid highways in a coordinated manner to preserve the capacity and maximize the performance of existing highway and transit facilities for travelers and carriers, the Secretary of Transportation may—

"(1) encourage transportation system managers, operators, public safety officials, and transportation planners within an urbanized area, who are actively engaged in and responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services, to collaborate and coordinate on a regional level in a continuous and sustained manner, for improved transportation systems management and operations, including, at a minimum—

"(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety partici-

pants for how the regions' systems should be managed, operated, and measured;

"(B) sharing of information among operators, service providers, public safety officials, and the general public; and

"(C) guiding in a regionally-coordinated manner, the implementation of regional transportation system management and operations initiatives including emergency evacuation and response, traffic incident management, technology deployment, and traveler information systems delivery, in a manner consistent with and integrated into the ongoing Metropolitan and Statewide transportation planning processes and regional intelligent transportation system architecture, if required; and

"(2) encourage States to establish a system of basic real-time monitoring capability for the surface transportation system and provide the capability and means to share that data among agencies (highways, transit, public safety), jurisdictions (including states, cities, counties, metropolitan planning organizations), private-sector entities; and the traveling public.

"(b) EXECUTION.—To support the successful execution of transportation systems management and operations activities, the Secretary may undertake the following:

"(1) Assist and cooperate with other Federal departments and agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between transportation system managers and operators, public safety officials, emergency managers, and general public to increase security, safety, and reliability of our Federal-aid highways.

"(2) Issue, if necessary, new guidance or regulations for the procurement of transportation system management and operations facilities, equipment, and services, including but not limited to equipment procured in preparation for manmade or natural disasters and emergencies, system hardware, software, and software integration services. In developing such guidelines, the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

"(3) Approve for Federal financial assistance from funds apportioned under section 104(b)(3) of this title support for regional operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and congestion relief.".

(e) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 164 the following:

"165. Transportation systems management and operations.".

SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

(a) GOALS AND PURPOSES.—

(1) GOALS.—The goals of the real-time system management information program are to provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of our nation's major highways and to widely share that information to improve the security of the surface transportation system, address congestion problems, support improved response to weather events, and facilitate national and regional traveler information.

(2) PURPOSES.—The purposes of the real-time system management information program are to—

(A) establish a nationwide system of basic real-time information for managing and operating our surface transportation system;

(B) identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting those needs; and

(C) provide the capability and means to share that data with state and local governments, and the traveling public.

(b) DATA EXCHANGE FORMATS.—Within one year of enactment of this Act, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems, including statewide incident reporting systems can readily be exchanged across jurisdictional boundaries, facilitating nationwide availability of information.

(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Within 2 years of enactment of this legislation, each State shall establish a statewide incident reporting system.

(d) REGIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE.—

(1) As State and local governments develop or update their regional ITS architectures, as specified in section 940.9 of title 23, Code of Federal Regula-

tions (Regional ITS Architecture), they shall explicitly address their real-time highway and transit information needs and the systems needed to meet those needs. This specific incorporation of information needs should address coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing this information.

(2) States are encouraged to incorporate the data exchange formats developed by the Secretary to ensure that the data provided by highway and transit monitoring systems can readily be exchanged across state and local governments, and with the traveling public.

(e) ELIGILIBITY.—

(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(3) of title 23, United States Code, for activities related to the planning and deployment of real-time monitoring elements.

(2) USE OF NATIONAL HIGHWAY SYSTEM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of title 23, United States

Code, for activities related to the planning and deployment of real-time monitoring elements.

(3) USE OF STATE PLANNING AND RESEARCH FUNDS.—Subject to project approval by the Secretary, a State may obligate funds available under section 104(i) of title 23, United States Code, as amended by section 1503 of this Act, for activities related to the planning of real-time monitoring elements.

(f) DEFINITION.—In this section, the term ''statewide incident reporting system'' means a statewide system for facilitating the real-time electronic reporting of incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate.

SEC. 1703. INTELLIGENT TRANSPORTATION SYSTEMS PERFORMANCE INCENTIVE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a comprehensive incentive program to accelerate the integration and interoperability of intelligent transportation systems in order to improve the performance of the surface transportation system in metropolitan and rural areas.

(b) DEFINITIONS.—

(1) INTELLIGENT TRANSPORTATION SYSTEMS.—The term ''intelligent transportation sys-

tems'' has the meaning given the term under section 5507 of this Act.

(2) NATIONAL HIGHWAY SYSTEM.—The term ''National Highway System'' means the Federal-aid highway system described in section 103(b) of title 23, United States Code.

(3) REGION.—The term ''region'' means any geographic area that identifies the boundaries of the regional Intelligent Transportation Systems architecture and is defined by the needs of the participating agencies and their stakeholders for the purposes of improving surface transportation operations. A region may include a metropolitan planning area, a corridor, a State, or multiple states.

(c) GOAL.—The goal of the intelligent transportation systems performance incentive program is to reduce traffic congestion, improve transportation system reliability, provide better customer service to users of the highway system, and improve safety and security by providing financial incentives to transportation agencies to invest in proactively monitoring and managing the performance of the transportation system.

(d) PURPOSE.—The purpose of the intelligent transportation systems performance incentive program is to support the deployment and integration of intelligent

transportation systems based on the performance of these systems in improving the management and operation of their surface transportation systems.

(e) REGULATIONS.—

(1) ISSUANCE.—The Secretary of Transportation shall issue regulations establishing a funding formula for the distribution of funds under this section.

(2) BASIS FOR FUNDING FORMULA.—The funding formula shall be based on criteria that reflect each State's—

(A) reductions in delay due to incidents;

(B) improvements in the operation and safety of signalized intersections;

(C) reductions in delay and improvements in safety of work zones on the National Highway System;

(D) improvements in the efficiency and reliability of transit services;

(E) overall improvement in integrated regional transportation operations;

(F) improvements in the quality and availability of traveler information;

(G) improved crash notification; and

(H) improvements in the safety and productivity of commercial vehicle operations on the National Highway System.

(3) EFFECTIVE DATE.—The funding formula shall take effect in the fiscal year established by the Secretary in the regulations.

(4) APPORTIONMENT PHASE-IN.—The funding formula shall provide for the apportionment of funds in the following manner:

(A) FIRST FISCAL YEAR.—In the first fiscal year that the funding formula is in effect, 50 percent of the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program for that fiscal year shall be apportioned according to the funding formula developed under this subsection and 50 percent of the amount shall be apportioned in accordance with the formula set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States Code.

(B) SECOND FISCAL YEAR.—In the second fiscal year the funding formula is in effect, 75 percent of the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive pro-

gram for that fiscal year shall be apportioned according to the funding formula developed under this subsection and 25 percent of the amount shall be apportioned in accordance with the formula set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States Code.

(C) THIRD AND SUBSEQUENT FISCAL YEARS.—In the third and subsequent fiscal years, the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program shall be apportioned according to the funding formula developed under this subsection.

(f) FUNDING.—

(1) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 1101(a)(13) of this Act shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

(2) FEDERAL SHARE.—The Federal share payable under section 120(b) of title 23, United States

Code, shall apply to any project carried out under this section.

(g) APPORTIONMENTS.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program among the States in accordance with the formula set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States Code, until the fiscal year established by the regulation under subsection (e)(3).

(h) USE OF FUNDS.—Amounts apportioned under this section shall be used for projects involving planning, deployment, integration, and operation of intelligent transportation systems, or any other project or activity designed to further improve system operations. Funds apportioned to each State under this section should be made available for projects in metropolitan planning areas, corridors, and other regions as appropriate to improve operations.

SEC. 1704. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

(a) IN GENERAL.—The Secretary shall carry out a Commercial Vehicle Information Systems and Networks program to—

(1) improve the safety and productivity of commercial vehicles and drivers; and

(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

(c) CORE DEPLOYMENT GRANTS.—

(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of Commercial Vehicle Information Systems and Networks.

(2) ELIGIBILITY.—To be eligible for a core deployment grant under this section, a State—

(A) shall have a Commercial Vehicle Information Systems and Networks program plan and a top level system design approved by the Secretary;

(B) shall certify to the Secretary that its Commercial Vehicle Information Systems and Networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications, are

consistent with the national intelligent transportation systems and Commercial Vehicle Information Systems and Networks architectures and available standards, and promote interoperability and efficiency to the extent practicable; and

(C) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for Commercial Vehicle Information Systems and Networks.

(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this section for the core deployment of Commercial Vehicle Information Systems and Networks may not exceed $2,500,000 million, including funds received under sections 4001(e) and 5001(a)(5) and (6) of the Transportation Equity Act for the 21st Century for the core deployment of Commercial Vehicle Information Systems and Networks.

(4) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of Commercial Vehicle Information Sys-

tems and Networks. Eligible States that have either completed the core deployment of Commercial Vehicle Information Systems and Networks or complete such deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of Commercial Vehicle Information Systems and Networks in their State.

(d) EXPANDED DEPLOYMENT GRANTS.—

(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (c) of this section, the Secretary may make grants to each eligible State, upon request, for the expanded deployment of Commercial Vehicle Information Systems and Networks.

(2) ELIGIBILITY.—Each State that has completed the core deployment of Commercial Vehicle Information Systems and Networks is eligible for an expanded deployment grant.

(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1 million per State.

(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of Commercial Vehicle Information Systems and Networks.

(e) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

(f) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 1101(a)(15) of this Act shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

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

(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term ''Commercial Vehicle Information Systems and Networks'' means the information systems and communications networks that provide the capability to—

(A) improve the safety of commercial vehicle operations;

(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

(2) COMMERCIAL VEHICLE OPERATIONS.—The term ''commercial vehicle operations''—

(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes,

and roadside safety and border crossing inspection and regulatory compliance operations.

(3) CORE DEPLOYMENT.—The term ''core deployment'' means the deployment of systems in a State necessary to provide the State with the following capabilities:

(A) Safety information exchange to—

(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

(ii) connect to the Safety and Fitness Electronic Records (SAFER) system for access to interstate carrier and commercial vehicle data, summaries of past safety performance, and commercial vehicle credentials information; and

(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records (SAFER) for access to interstate carrier and commercial vehicle data.

(B) Interstate credentials administration to—

(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the International Registration Plan (IRP) and International Fuel Tax Agreement (IFTA) credentials and extend this processing to other credentials, including intrastate, titling, oversize/overweight, carrier registration, and hazardous materials;

(ii) connect to the International Registration Plan (IRP) and International Fuel Tax Agreement (IFTA) clearinghouses; and

(iii) have at least 10 percent of the transaction volume handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.

(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection sites and to replicate this screening at other sites.

(4) EXPANDED DEPLOYMENT.—The term ''expanded deployment'' means the deployment of systems in a State that exceed the requirements of an core deployment of Commercial Vehicle Information Systems and Networks, improve safety and the productivity of commercial vehicle operations, and enhance transportation security.

Subtitle H—Program Efficiencies and Improvements—Federal-Aid Stewardship

SEC. 1801. SURFACE TRANSPORTATION SYSTEM PERFORMANCE PILOT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish and implement a Surface Transportation System Performance Pilot Program. Subject to this section, a State may assume some or all, as the Secretary and State may agree, of the Secretary's responsibilities under title 23, United States Code, or assume all or some, as they may agree, of the Secretary's responsibilities under any Federal law, for projects constructed with Federal funds under this pilot program.

(2) OBLIGATION OF FUNDS.—States participating in this pilot program may obligate funds

under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23, United States Code, for any purpose for which Federal funds may be obligated by a State under title 23. However, the State shall reserve 10 percent of the funds apportioned under section 104(b)(3) in each fiscal year for transportation enhancement activities as specified in section 133(d)(1), as amended by this Act.

(3) PURPOSE.—The purpose of this performance pilot program is to demonstrate the benefits of performance-based management and to determine how such an approach can be best incorporated into an effective Federally-assisted, State administered Federal-aid highway program. The Secretary shall work closely with potential pilot States to determine ways to build into program-level oversight performance measures that reflect both State and national interests and to apply them with specific measurement of program effectiveness.

(b) STATE PARTICIPATION.—

(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit up to five States to participate in the performance pilot program established under subsection (a).

(2) APPLICATION.—To participate in the performance pilot program, a State shall submit an application to the Secretary that contains, at a minimum, the following:

(A) A description of the State's long-term and short-term transportation goals.

(B) A description of how the State will address any areas of national strategic importance, as may be determined by the Secretary, in reaching its goals. The areas of national strategic importance must include the following: national security, interstate commerce, mobility, safety, and environmental stewardship.

(C) A description of the performance measures under which the State's progress and success toward reaching its goals would be measured.

(D) A description of how funding will be distributed equitably across the State, including to urbanized areas with populations in excess of 200,000. This would include addressing how local units of government would be consulted in the process of program development and implementation.

(E) Evidence of the State's notice and solicitation of public comment and copies of comments received from such solicitation.

(F) Such other information as the Secretary may require.

(3) PUBLIC NOTICE.—Each State that submits an application under this subsection, shall give public notice of its intent to participate in the pilot program at least 20 days prior to submitting its application to the Secretary. The State shall provide notice and solicit public comment by publishing the entire application in accordance with the State's public notice law.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if the application demonstrates how the State plans to address the areas of national strategic importance as identified in subsection (b)(2)(B). The Secretary will prioritize the selection of applications based on the degree to which the applicant's proposed goals address the areas of national strategic importance, the State's ability to manage and monitor its programs on a performance basis, the State's commitment to conduct the required evaluations,

and the degree to which the application otherwise proposes to achieve the purposes of this section.

(c) PROGRAM ELEMENTS.—

(1) STATE AGREEMENT TO ASSUME SECRETARY'S RESPONSIBILITIES.—

(A) ASSIGNMENT AND ASSUMPTION OF RESPONSIBILITIES.—The Secretary and a State may agree, as provided in this section, that the Secretary will assign and the State will assume some or all of the responsibilities of the Secretary under any Federal law or requirement, except for the responsibilities relating to Federally recognized tribes, with respect to any project constructed with federal funds under this pilot program. The State shall assume these responsibilities subject to the same procedural and substantive requirements as would be required if such responsibilities were carried out by the Secretary. When a State assumes such responsibilities under a Federal law, the State shall be solely responsible and solely liable for complying with and carrying out that law in lieu of the Secretary and shall submit a certification as provided in subsection (f)(1).

(B) FEDERAL ROLE OF STATE.—For purposes of assuming the Secretary's responsibilities under a Surface Transportation System Performance Pilot Program, to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act, title 23, United States Code, or any other Federal law, the State shall be deemed to be a Federal agency under such laws, and shall agree that its transportation department, or any other State agency carrying out a responsibility of the Secretary under this section, shall be subject to such Federal laws to the same extent that a Federal agency would be subject to such laws.

(C) STATE CERTIFICATION OF ASSUMPTION OF RESPONSIBILITIES.—Whenever a State assumes any of the Secretary's responsibilities under a Federal law, the State shall certify that it has laws and regulations that—

(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

(ii) are comparable to the Federal Freedom of Information Act and that any

decision regarding the public availability of a document under those laws is reviewable by a court of competent authority.

(2) OTHER FEDERAL AGENCY VIEWS.—If a State assumes a responsibility of the Secretary under paragraph (1) of this subsection that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of such Federal agency prior to entering into or renewing any program agreement.

(3) MAINTENANCE OF EFFORT.—The Secretary shall not make any apportionment to a State participating in this performance pilot program in any fiscal year under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23, United States Code, unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures in any fiscal year at or above the average level of such expenditures for the preceding three fiscal years.

(4) FEDERAL SHARE PAYABLE.—The Federal share payable under this performance pilot program for a project funded with apportionments under sec-

tions 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23, United States Code, may be up to 100 percent; except that, the Federal share payable for transportation enhancements under section 133(d)(1), shall be determined in accordance with title 23, United States Code.

(d) PROGRAM AGREEMENT.—

(1) IN GENERAL.—Each year prior to making any apportionments to a participating State, the Secretary shall enter into an agreement with the State establishing its performance goals and performance measures.

(2) AGREEMENT CONCERNING PARTICIPATING STATE'S RESPONSIBILITIES.—The Secretary shall enter into one or more agreements with a State selected for participation in this pilot program concerning which, if any, Federal laws or requirements the State will carry out under subsection (c). The program agreement between the Secretary and the State shall specify management responsibilities, including the role of the State in relation to other Federal agencies.

(3) GOALS.—The Secretary and participating State shall agree, based on the State's priorities and the areas of national strategic importance as deter-

mined by the Secretary, on the long-term and short-term goals to be achieved using the State's apportionments under the program.

(4) PERFORMANCE MEASURES.—The Secretary and the State shall mutually establish the performance measures that the State must meet relating to the goals identified in paragraph (3) of this subsection. Continued participation in the pilot program is contingent on the State meeting these performance measures. If a State fails to meet the agreed upon performance measures in two consecutive years, the Secretary shall terminate a State's participation in the pilot program.

(5) COMPLIANCE.—If a participating State fails to comply with any provision of this section, the Secretary shall take such actions as necessary to ensure compliance. Corrective actions may include termination of the State's participation in the pilot program.

(e) LIMITATIONS ON AGREEMENTS.—

(1) CIVIL RIGHTS.—Nothing in this section shall be construed as relieving the Secretary from any of the Secretary's responsibilities under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.).

(2) MAJOR PROJECTS.—Nothing in this section shall be construed as relieving the Secretary from any of the Secretary's responsibilities with respect to major projects under section 106(h) of title 23, United States Code.

(3) STATEWIDE AND METROPOLITAN PLANNING.—Nothing in this section shall be construed as relieving the Secretary from any of the Secretary's responsibilities under the Statewide and metropolitan planning requirements of sections 134 and 135 of title 23, United States Code.

(4) REGULATORY RESPONSIBILITIES.—Nothing in this section shall be construed to allow a State to assume any of the Secretary's rulemaking authority under any Federal law.

(f) STATE REPORTING AND ACCOUNTABILITY.—A State participating in this pilot program shall make the following reports to the Secretary. A State may combine reports as appropriate.

(1) STATE CERTIFICATION PRIOR TO OBLIGATION OF FUNDS.—As a prerequisite to the Secretary's agreement that a State will fulfill or assume any of the Secretary's responsibilities, and prior to the obligation of any money under this pilot program

in any fiscal year, the participating State shall provide, and annually renew, a certification that—

(A) is in a form acceptable to the Secretary;

(B) is executed by the Governor or the State's top-ranking transportation official charged with the responsibility for highway construction;

(C) specifies that the State will fully carry out any of the responsibilities it may assume;

(D) specifies that the State consents to assume the status of the Secretary under any responsibility it may assume; and

(E) expressly consents on behalf of the State and himself or herself to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary it may assume.

(2) END OF FISCAL YEAR STATE CERTIFICATION.—At the end of each fiscal year in which a State obligates funds under this pilot program, the State shall certify that it obligated such funds only for projects that would otherwise be eligible for assistance under title 23. Such certification shall also specify that the State reserved for obligation the

amounts specified in section 133(d)(1) of such title as amended by this Act.

(3) FISCAL ACCOUNTABILITY.—Each State shall provide an annual accounting for the obligations in a manner determined by the Secretary in such a way as to provide a basis for evaluating the effect of the pilot program expenditures.

(4) ANNUAL STATE ASSESSMENT.—Each State will provide to the Secretary a narrative report at the end of each year describing the benefits of the pilot program to the State and any suggestions for improving the pilot program.

(g) TERMINATION.—This pilot program shall terminate six years following enactment of this Act. Funding obligated under the pilot program shall continue to be administered under the terms of the pilot program until those funds have been expended.

SEC. 1802. STEWARDSHIP AND OVERSIGHT.

(a) Section 106 of title 23, United States Code, is amended—

(1) by striking subsection (e) and inserting the following:

''(e) VALUE ENGINEERING ANALYSIS.—

''(1) ANALYSIS.—For all projects on the National Highway System with an estimated total cost

of $25,000,000 or more, and any project the Secretary deems appropriate, the State shall provide a value engineering analysis or other cost reduction analysis. For major projects as identified in subsection (h) of this section, more than one such analysis may be required.

''(2) DEFINITION.—In this subsection, the term ''value engineering analysis'' means a systematic process of review and analysis of a project during its design phase by a multidisciplined team of persons not involved in the project in order to provide suggestions for reducing the total cost of the project and providing a project of equal or better quality. Such suggestions may include combining or eliminating otherwise inefficient use of expensive parts of the original proposal design for the project and total redesign of the proposed project using different technologies, materials, or methods so as to accomplish the original purpose of the project.''; and

(2) by striking subsections (g) and (h) and inserting the following:

''(g) OVERSIGHT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized by this title. At

a minimum, the program shall be responsive to all areas related to financial integrity and project delivery.

"(2) FINANCIAL INTEGRITY.—

"(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a). Risk assessment procedures shall be used to identify review areas.

"(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs, and shall periodically evaluate the States' practices for estimating project costs, awarding contracts, and reducing project costs.

"(C) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds have sufficient accounting controls to properly manage Federal funds. The Secretary shall periodically review the States' monitoring of subrecipients.

"(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the States' project delivery system, which includes one

or more activities that are involved in the life cycle of a project from its conception to its completion. Risk assessment procedures will be used to identify review areas.

"(4) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds have adequate project delivery systems for projects approved under this section. The Secretary shall periodically review the States' monitoring of subrecipients.

"(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law. In addition, the Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

"(h) MAJOR PROJECTS.—

"(1) IN GENERAL.—Notwithstanding any other provision in this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, or any other project in the discretion of the Sec-

retary, shall submit to the Secretary a project management plan and an annual financial plan.

"(2) PROJECT MANAGEMENT PLAN.—The project management plan shall document the procedures and processes in place to provide timely information to the project decision makers to effectively manage the scope, costs, schedules, and quality, and the Federal requirements of the project, and the role of the agency leadership and management team in the delivery of the project.

"(3) FINANCIAL PLAN.—The financial plan shall be based on detailed estimates of the cost to complete the project. Annual updates shall be submitted based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

"(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives $100,000,000 or more in Federal assistance for such project, and that is not covered by subsection (h) of this section, shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the Secretary's request.".

(b) Section 114(a) of such title is amended—

(1) in the first sentence by striking ''highways or portions of highways located on a Federal-aid system'' and inserting ''Federal-aid highway or portion thereof''; and

(2) by striking the second sentence and inserting ''The Secretary shall have the right to inspect and take any corrective action as the Secretary may deem appropriate.''.

(c) Section 117 of such title is amended by striking subsection (d) and redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

(d) Section 307 of title 49, United States Code, is amended to read as follows:

''§ Sec. 307. Contractor suspension and debarment policy; sharing fraud monetary recoveries

''(a) MANDATORY ENFORCEMENT POLICY.—

''(1) Notwithstanding any other provision of law, the Secretary shall—

''(A) debar any contractor or subcontractor convicted of criminal or civil offenses involving fraud related to projects receiving Federal highway or transit funds. The debarment period shall be determined by the Secretary, as appropriate; and

"(B) suspend any contractor or subcontractor upon their indictment for criminal or civil offenses involving fraud, subject to the approval of the Attorney General. The Secretary shall have authority to exclude non-affiliated subsidiaries of the debarred business entity, subject to the approval of the Attorney General.

"(2) Upon a finding that mandatory debarment or suspension of a contractor or subcontractor under subsection (1), above, would be contrary to the national security interests of the U.S., the Secretary may waive the debarment or suspension.

"(b) SHARING OF MONETARY RECOVERIES.—

"(1) Notwithstanding any other provision of law, monetary judgments accruing to the Federal government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved. The State or local transit agency shall use these funds for transportation infrastructure and oversight activities related to programs authorized under titles 23 and 49.

"(2) The amount of recovered funds to be shared with the affected State or local transit agen-

cy shall be determined by the Attorney General in consultation with the Secretary. These funds shall be considered Federal funds, to be used in compliance with other relevant Federal transportation laws and regulations.

''(3) The requirement for sharing of funds described in subparagraph (1), above, shall not be in effect in circumstances wherein the State or local transit agency is found by the Department of Justice, in consultation with the Secretary, to have been involved or negligent with respect to the fraudulent activities.''.

(e) The analysis for chapter 3 of title 49 is amended by revising the entry for item 307 to read as follows:

''307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.''.

SEC. 1803. EMERGENCY RELIEF.

Section 125(c)(1) of title 23, United States Code, is amended by striking ''$100,000,000'' and inserting ''$200,000,000''.

SEC. 1804. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended—

(1) in paragraph (7), by striking ''public lands highway'' and inserting ''recreation roads, public Forest Service roads'';

(2) by striking paragraph (8) and inserting the following:

''(8) NATIONAL FOREST SYSTEM ROADS AND TRAILS.—The term 'National Forest System roads and trails' means forest roads or trails under the jurisdiction of the Forest Service.'';

(3) by striking paragraph (10) and inserting the following:

''(10) FOREST ROAD OR TRAIL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System lands that is necessary for the protection, administration, use, and development of its resources. There are four types of forest roads:

''(A) CLASSIFIED FOREST ROAD.—The term 'classified forest road' means a forest road that the Forest Service determines to be needed for long-term motor vehicle access, including State roads, county roads, privately owned roads, National Forest System roads, and other roads authorized by the Forest Service.

''(B) UNCLASSIFIED FOREST ROAD.—The term 'unclassified forest road' means a forest road not managed by the Forest Service as part of the forest transportation system.

"(C) TEMPORARY FOREST ROAD.—The term 'temporary forest road' means a forest road that is authorized by the Forest Service through contract, permit, lease, other written authorization, or emergency operation not intended to be a part of the forest transportation system and not necessary for long-term resource management.

"(D) PUBLIC FOREST SERVICE ROAD.—The term 'Public Forest Service Road' means a classified forest road that is open to public travel for which title and maintenance responsibility is vested in the United States government and which has been designated a public road by the Forest Service.";

(4) in paragraph (26), as redesignated by this Act, by striking "unappropriated or unreserved"; and

(5) by striking paragraph (27), as redesignated by this Act, by redesignating paragraph (28) as (27), and by inserting the following new paragraph:

"(28) RECREATION ROADS.—The term 'recreation roads' means those public roads that provide access to museums, lakes, reservoirs, visitors centers, gateways to major wilderness areas, public uses

areas, recreation and historic sites and for which title is vested in the United States Government.''.

(b) FEDERAL SHARE PAYABLE.—

(1) Section 120(k) of such title is amended by striking ''Federal-aid highway''.

(2) Sections 120(k) and 120(l) of such title are amended by striking ''section 104'' each time it appears, and inserting in its place ''this title and chapter 53 of title 49''.

(c) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of such title is amended by striking the first two sentences and inserting the following: ''Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency, the State may (1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency, or (2) make a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency; the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations for the estimated Federal share, under the provisions of this title,

of the State's obligation so deposited or paid by such State.''.

(d) ALLOCATIONS.—Section 202 of such title is amended—

(1) in subsection (a), by inserting ''and grasslands'' after ''national forests'' in the first sentence;

(2) by striking subsection (b) and inserting the following:

''(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways, after making the transfer of funds provided for in subsection 204(g) of this title, for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987, and with respect to these allocations the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through renewable resource and land use planning and the impact of such planning on existing transportation facilities.''; and

(3) in subsection (d)—

(A) in paragraph (1), by striking ''1999'' in the heading and within paragraph (1) and inserting ''2005'';

(B) in paragraph (2), by striking ''2000'' in the heading and within paragraphs (2)(A), (2)(B), and (2)(D) and inserting ''2005'', and by striking ''1999'' in paragraph (2)(B) and inserting ''2004'' at each place it appears;

(C) in paragraph (3)(A), by inserting ''this chapter and section 125(e) of'' after ''under'', and by adding ''and the approved Indian reservation road transportation improvement program'' after ''Act''; and

(D) in paragraph (4)(D), by striking the sentence after ''Approval Requirement.'' and inserting: ''Funds for preliminary engineering for Indian reservation road bridge projects under this subsection may be made available by the Secretary upon request by a tribe or by the Secretary of the Interior. Funds for construction and construction engineering shall be made available only after approval of the plans, specifications, and estimates by the Secretary.''.

(e) PLANNING AND AGENCY COORDINATION.—Section 204 of such title is amended—

(1) in subsection (a), by inserting ''refuge roads,'' after ''parkways,'';

(2) in subsection (b), by striking ''appropriate contracts'' in the second sentence and inserting ''appropriate agreements'';

(3) in subsection (k)—

(A) by striking ''(2), (5),'' and inserting ''(2), (3), (5),'';

(B) by striking ''and'' after the semicolon at the end of paragraph (1)(B);

(C) by striking the period after ''improvements'' at the end of paragraph (1)(C) and inserting a semicolon;

(D) by adding after paragraph (1)(C) the following new subparagraphs:

''(D) maintenance of public roads in National Fish hatcheries under Fish and Wildlife Service jurisdiction;

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

''(F) maintenance and improvement of recreational trails, but such expenditures on trails are limited to 5 percent of available funding per fiscal year.''.

(f) SAFETY.—

(1) ALLOCATIONS.—Section 202 of such title is amended by adding at the end the following:

''(f) SAFETY.—On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for safety as follows: 10 percent to the Bureau of Reclamation, 15 percent to the Bureau of Indian Affairs, 15 percent to the Bureau of Land Management, 15 percent to the Forest Service, 5 percent to the Fish and Wildlife Service, 15 percent to Military Traffic Management Command, 15 percent to the National Park Service, and 10 percent to the U.S. Army Corps of Engineers. The Secretary, from time to time, may adjust the percentage of safety funds allocated to the Federal agencies listed above based on the outputs of agency safety management systems, other safety need analyses or/studies, and the use of previously allocated safety funds.''.

(2) AVAILABILITY OF FUNDS.—Section 203 of such title is amended in the first sentence by inserting ''safety,'' after ''refuge roads,'' at each place it appears.

(3) USE OF FUNDING.—Section 204 is amended by adding at the end the following:

''(l) SAFETY ACTIVITIES.—

"(1) IN GENERAL.—Not withstanding any other provision of this title, funds made available for safety shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of transportation safety improvement projects, elimination of high accident locations, protection or elimination of at-grade railway-highway crossings, collection of safety information, transportation planning, bridge inspections, development and operation of safety management systems, highway safety education programs, and other eligible safety activities authorized in Chapter 4 of this title.

"(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency, as appropriate, may enter into contracts or agreements with a State, subdivision of a State, or Indian tribe.

"(3) EXCEPTION.—Funds allocated to the Bureau of Reclamation for the purposes described in this subsection are exempted from the cost-share requirements of Public Law 89–72, The Federal Water Recreation Act.".

(g) RECREATION ROADS.—

(1) AUTHORIZATIONS.—Section 201 of such title is amended by striking ''public lands highways'' and inserting ''recreation roads''.

(2) ALLOCATIONS.—Section 202 of such title, as amended by this section, is further amended by adding at the end the following:

''(g) RECREATION ROADS.—On October 1 of each fiscal year, the Secretary, after making the transfer provided for in subsection 204(i) of this title, shall allocate the sums authorized to be appropriated for such fiscal year for recreation roads as follows: 6 percent to the Bureau of Reclamation, 6 percent to the U.S. Army Corps of Engineers, 10 percent to the Bureau of Land Management, 10 percent to the Military Traffic Management Command, and 68 percent to the Forest Service. Recreation road funds shall be allocated to projects and activities according to the relative needs of each area served by these roads as indicated in the approved transportation improvement programs for each agency. The Secretary, from time to time, may adjust the percentage of recreation road funds allocated to the Federal agencies listed above based on the outputs of agency management systems, other need analyses/or studies, and the use of previously allocated recreation road funds.''.

(3) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by striking ''public lands highways'' and inserting ''recreation roads'' at each place it appears.

(4) USE OF FUNDING.—Section 204 of such title, as amended by this section, is further amended by adding at the end the following:

''(m) RECREATION ROADS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

''(A) maintenance or improvements of existing recreation roads;

''(B) maintenance and improvements of eligible projects described in paragraphs (1), (2), (3), (5), and (6) of subsection (h) that are located in or adjacent to Federal land areas under the jurisdiction of the Departments of Agriculture, Defense, or the Interior;

''(C) transportation planning and administrative costs associated with such maintenance and improvements; and

"(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land areas under the jurisdiction of the Departments of Agriculture, Defense, or the Interior.

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

"(3) NEW ROADS.—No funds available under this section shall be used to pay the cost of the design or construction of new recreation roads.

"(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—Maintenance and improvement projects which are funded under this subsection and are consistent with or have been identified in a land use plan for the Federal area do not require any additional environmental reviews or assessments under the National Environmental Policy Act if the Federal agency that promulgated the land use plan analyzed the specific proposal under the National Environmental Policy Act and there are no significant

changes to the proposal bearing on environmental concerns and no significant new information.

"(5) EXCEPTION.—Funds allocated to the Bureau of Reclamation for the purposes described in this subsection are exempted from the cost-share requirements of Public Law 89–72, The Federal Water Recreation Act.".

(h) CONFORMING AMENDMENTS.—

(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by inserting "recreation roads," after "public lands highways," each place the words appear.

(2) Sections 120(e), 125(e), 201, 202(a), 203, section 205 in the heading and in subsections (a) and (d), and the analysis for chapter 2 of such title are amended by striking "forest development roads" and inserting "National Forest System roads" each place the words appear.

(3) Section 204(a)(1) is amended by striking "public lands highways" and inserting "recreation roads, forest highways", section 204(b) is amended by striking "public lands highways" and inserting "recreation roads", and section 204(i) is amended by striking "public lands highways" and inserting

"recreation roads and forest highways" each place the words appear.

(4) Section 217(c) is amended by striking "public lands highways" and inserting "refuge roads".

SEC. 1805. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) APPORTIONMENT.—The Secretary shall apportion funds made available by section 1101(a)(7) of this Act for fiscal years 2004 through 2009 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 201 of the Appalachian Regional Development Act of 1965 prepared by the Appalachian Regional Commission. Such funds shall be available to construct highways and access roads under section 201 of the Appalachian Regional Development Act of 1965.

(b) APPLICABILITY OF TITLE 23.—Funds authorized by section 1101(a)(7) of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with such section 201 and such funds shall remain available until expended.

(c) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by adding ''and the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965'' following ''(other than the emergency relief program authorized by section 125''.

SEC. 1806. MULTI-STATE CORRIDOR PLANNING PROGRAM.

(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and implement a program to support and encourage multi-state transportation planning, provide for streamlined transportation project development, and facilitate transportation decision-making.

(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations are eligible to receive and administer funds provided under this program.

(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for multi-state highway and multi-state multi-modal planning studies.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All studies funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) SELECTION CRITERIA.—The Secretary shall select projects based on—

(1) the existence and significance of signed and binding multi-jurisdictional agreements;

(2) endorsement of the study by elected State and local representatives;

(3) prospects for early completion of the study; and

(4) whether the projects to be studied are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (Public Law 102-240; 105 Stat. 2032).

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multi-modal and multi-jurisdictional transportation decision-making; and

(2) give priority to studies that emphasize multi-modal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share payable, using funds from all Federal sources, for any study carried out under this section shall not exceed 80 percent of the total cost of such study, except that the share of funds from the Highway Trust Fund (other than the Mass Transit Account) shall not exceed 50 percent of the total cost of such study.

(h) APPLICABILITY OF TITLE 23 U.S.C.—Funds authorized to be appropriated under section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

SEC. 1807. BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.

(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and implement a program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security for the United States borders with Canada and Mexico.

(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations at or near an international land border in the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North

Dakota, Texas, Vermont and Washington, are eligible to receive and administer funds allocated under this program.

(c) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall make allocations under the program established in this section for activities at or near international land borders in the States listed in subsection (b).

(2) SPECIFIC ACTIVITIES.—The activities eligible for funding under this program are—

(A) highway and multi-modal planning or environmental studies;

(B) cross-border Port of Entry and safety inspection improvements, including operational enhancements and technology applications;

(C) technology and information exchange activities; and

(D) right-of-way acquisition, design, and construction, where needed to add the enhancements or applications described in subparagraphs (B) and (C), or to decrease air pollution emissions from vehicles or inspection facilities at border crossings.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All studies and projects funded under this program shall

be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code. All regionally significant projects that are part of such applications must be on the transportation plans and program required by sections 134 and 135 of title 23, United States Code.

(e) SELECTION CRITERIA.—The Secretary shall select projects based on—

(1) expected benefits, including air quality benefits, of the project in relation to its costs;

(2) prospects for early completion of the study or project;

(3) endorsement of the project by formally constituted bi-national organizations with both Federal and State or provincial representation;

(4) the existence and significance of signed and binding multi-jurisdictional agreements;

(5) contributions of other title 23 funds and non-title 23 funds above the minimum required; and

(6) the extent to which the project benefits are multi-modal.

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall emphasize multi-modal planning; infrastructure improvements; and operational improvements that increase safety, security, freight move-

ment, or highway access to rail, marine, and air services while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share payable on account of any project carried out under this section shall not exceed 80 percent of the total cost of such project.

(h) APPLICABILITY OF TITLE 23 U.S.C.—Funds authorized to be appropriated under section 1101(1)(11) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(i) ALLOCATION OF FUNDS.—No individual project whose scope of work is limited to information exchange shall receive an allocation greater than $500,000 in a single year.

(j) PROJECTS IN CANADA OR MEXICO.—Projects in Canada or Mexico proposed by one or more border States that directly and predominantly facilitate cross border vehicle and commercial cargo movements at the international gateways or ports of entry into the border region(s) of such State(s), may be constructed using funds allocated under this program provided that, prior to the obligation of such funds, Canada or Mexico, or the political subdivision thereof responsible for the operation of the facility to be constructed, has provided assurances satisfactory to the Secretary that any facility constructed

under this subsection will be constructed to standards equivalent to those in the United States and properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to such project.

(k) SET-ASIDE.—The Secretary shall set-aside $47,000,000 of the funds authorized for fiscal year 2004 under section 1101(a)(11) of this Act for construction of State border safety inspection facilities in the States of Arizona, California, New Mexico, and Texas.

(l) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

(1) STATE FUNDS.—At the request of a State, funds allocated under this section may be transferred to the General Services Administration for the purpose of funding a specific project or projects if the Secretary determines, after consultation with the State transportation department as appropriate, that the General Services Administration should carry out the project or projects and the General Services Administration agrees to accept the transfer of funds and to administer those funds. The State shall provide the 20 percent non-Federal share of the project cost, as required under subsection (g) of this section, directly to the General Services Administra-

tion. Funds so transferred or provided shall not be deemed to be an augmentation of the General Services Administration's appropriations and shall be administered under that agency's procedures, except the transferred funds shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the allocated funds transferred for the projects.

(2) DIRECT TRANSFER OF AUTHORIZED FUNDS.—In addition to allocations to States and metropolitan planning organizations as provided in subection (b), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in the States identified in subsection (b), if the Secretary determines that such transfer is necessary to effectively carry out the purposes of this program and the General Services Administration agrees to accept the transfer of funds and to administer those funds. Funds so transferred shall not be deemed to be an augmentation of the General Serv-

ices Administration's appropriations and shall be administered under that agency's procedures, except the transferred funds shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Section 120 of title 23, United States Code, shall not apply to funds so transferred. Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred.

SEC. 1808. TERRITORIAL HIGHWAY PROGRAM AMENDMENTS.

(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, as amended by this Act, is further amended—

(1) by redesignating paragraphs (36) through (38) as paragraphs (37) through (39) respectively, and

(2) by adding the following new paragraph after paragraph (35):

"(36) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary inter-island connectors in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the

Northern Mariana Islands that have been designated by the Governor and approved by the Secretary as provided in section 215 of this title.''.

(b) FUNDING.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking ''to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands'' and inserting ''for the territorial highway program authorized under section 215 of this title''.

(c) ELIGIBLE PROJECTS.—Section 103(b)(6)(P) of title 23, United States Code, is amended to read as follows:

''(P) Projects eligible for assistance under the territorial highway program as provided in section 215 of this title.''.

(d) TERRITORIAL HIGHWAY PROGRAM.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

''§ 215. Territorial highway program

''(a) IN GENERAL.—Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and to the United States from the improvement of highways in such territories of the United States, the Secretary is authorized to assist each such territorial gov-

ernment in a program for the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors designated by the Governor of such territory and approved by the Secretary. Federal financial assistance shall be granted under this section in accordance with section 120(h) of this title.

"(b) TECHNICAL ASSISTANCE.—In order to continue a long-range highway development program, the Secretary is authorized to provide technical assistance to the territorial governments to enable them to, on a continuing basis, engage in highway planning, conduct environmental evaluations, administer right-of-way acquisition and relocation assistance programs, and design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors. The technical assistance to be provided and the terms for sharing information among the territories shall be set forth in the agreement required by subsection (d) of this section.

"(c) APPLICABILITY OF CHAPTER 1.—The provisions of chapter 1 of this title (other than provisions related to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the territorial highway program, except as determined by the Secretary to be inconsistent with the needs of the territories and the intent of the territorial highway program. The specific sec-

tions of chapter 1 that are applicable to each territory and the extent of their applicability shall be identified in the agreement provided for in subsection (d) of this section.

"(d) AGREEMENT.—

"(1) Except as provided in paragraph (3) of this subsection, no part of the appropriations authorized for the territorial highway program shall be available for obligation or expenditure with respect to any territory until the Governor enters into a new agreement with the Secretary, within 12 months after the effective date of this Act, providing that the government of such territory shall—

"(A) implement the territorial highway program in accordance with the appropriate provisions of chapter 1 of this title, as provided for in subsection (c) of this section;

"(B) design and construct a system of arterial and collector highways, including necessary interisland connectors, built in accordance with standards appropriate for each territory and approved by the Secretary;

"(C) provide for the maintenance of facilities constructed or operated under provisions of this section in a condition to adequately serve the needs of present and future traffic; and

"(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

"(2) The new agreement required by paragraph (1) of this subsection also shall specify the kind of technical assistance to be provided, include appropriate provisions regarding information sharing among the territories, and delineate the oversight role and responsibilities of the territories and the Secretary. The agreement shall be re-evaluated every two years and modified as appropriate.

"(3) Agreements in effect on the effective date of this Act shall continue in force until replaced, as required by paragraph (1) of this subsection, and appropriations authorized for the program shall be available for obligation or expenditure while the agreements are in place.

"(e) PERMISSIBLE USES OF FUNDS.—

"(1) Funds made available for the territorial highway program may be used only for—

"(A) eligible surface transportation program projects described in section 133(b) of this title;

"(B) cost effective preventive maintenance consistent with the requirements of section 116 of this title;

"(C) ferry boats, terminal facilities, and approaches, as provided for in section 129(b) and (c) of this title;

"(D) engineering and economic surveys and investigations for the planning of future highway programs and the financing thereof;

"(E) studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and

"(F) research and development, necessary in connection with the planning, design, and maintenance of the highway system, and the regulation and taxation of their use.

"(2) None of the appropriations authorized for the territorial highway program shall be obligated or expended for routine maintenance.

"(f) LOCATION OF PROJECTS.—Except as provided in subsection (b)(1) of section 133 of this title, territorial highway projects (other than those described in subsection (b)(3) and (4) of section 133 of this title) may not be undertaken on roads functionally classified as local.".

(h) CONFORMING AMENDMENTS.—The analysis of chapter 2 of title 23 is amended by revising the item relating to section 215 to read as follows:

"215. Territorial highway program.".

SEC. 1809. FUTURE INTERSTATE SYSTEM ROUTES.

(a) WRITTEN AGREEMENT OF STATES.—Section 103(c)(4)(B)(ii) of title 23, United States Code, is amended by striking "12" and inserting "25".

(b) REMOVAL OF DESIGNATION.—Section 103(c)(4)(B)(iii)(I) of such title is amended—

(1) by striking "in the agreement between the Secretary and the State or States"; and

(2) by adding at the end the following: "An agreement entered into under clause (ii) prior to the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be deemed to include the 25 year time limitation, notwithstanding an earlier construction completion date in that agreement.".

SEC. 1810. DONATIONS AND CREDITS.

Section 323 of title 23, United States Code, is amended by—

(1) inserting "or a local government from offering to donate funds, materials or services performed by local government employees," after "services" in the first sentence of subsection (c); and

(2) striking subsection (e).

SEC. 1811. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

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

(1) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''socially and economically disadvantaged individuals'' has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant sub-

contracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to

receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

SEC. 1812. HIGHWAY BRIDGE PROGRAM.

(a) PROGRAM NAME.—Section 144 of title 23, United States Code, is amended in the section heading by striking ''replacement and rehabilitation''.

(b) IN GENERAL.—Section 144(a) of such title is amended to read as follows:

''(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge program be established to enable the several States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary find that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.''.

(c) SCOUR COUNTERMEASURES.—Section 144(d) of such title is amended to read as follows:

"(d) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsections (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge. Whenever any State makes application to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installing scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or deicing composition to, such structure. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State, except that a State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installing scour countermeasures to a bridge under this section without re-

gard to whether the bridge is eligible for replacement or rehabilitation under this section.''.

(d) APPORTIONMENT FORMULA.—Section 144(e) of such title is amended—

(1) in the third sentence by striking ''square footage'' and inserting ''area'';

(2) in the fourth sentence by striking ''by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,'' and by striking ''1997'' and inserting ''2003''; and

(3) by striking ''the Federal-aid primary system'' and inserting ''Federal-aid highways''.

(e) DISCRETIONARY BRIDGE PROGRAM.—Section 144(g) of such title is amended—

(1) by striking ''SET ASIDES.'' in the heading of (g) and all that follows through paragraph (2)(B);

(2) by striking ''(3)'' and redesignating paragraph (3) as subsection (g); and

(3) in subsection (g), as redesignated, by—

(A) striking ''nor more than 35 percent'';

(B) striking ''1987'' and inserting ''2004'';

(D) striking ''2003'' and inserting ''2009''; and

(E) striking ''paint'' and inserting ''perform systematic preventative maintenance''.

(f) INVENTORIES AND REPORTS.—Section 144(i) of such title is amended—

(1) in paragraph (3), by striking ''and'';

(2) in paragraph (4), by striking ''section.'' and inserting ''section; and''; and

(3) after paragraph (4), by striking ''Such reports shall be submitted to such committees biennially at the same time as the report required by section 307(f)(1) of this title is submitted to Congress.'' and inserting the following:

''(5) submit reports required by this subsection to such committees biennially at the same time as the report required by section 502(g) of this title.''.

(g) OFF-SYSTEM BRIDGE PROGRAM.—Section 144(n) of such title is amended by inserting ''general engineering'' between ''all'' and ''standards''.

(h) HISTORIC BRIDGE PROGRAM.—Section 144(o) of such title is amended—

(1) in paragraph (3), by striking ''title (including this section)'' and inserting ''section'' and by inserting ''200 percent of'' after ''shall not exceed''; and

(2) in paragraph (4), by inserting ''200 percent of'' after ''not to exceed'', and by striking ''title'' at the end of the paragraph and inserting ''section''.

(i) WATER RESOURCES PROJECTS.—Section 144 of such title is further amended by adding at the end the following:

''(r) Notwithstanding any other provision of law, any bridge funded under this title shall not be considered a 'water resources project' as that term is used in the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287).''.

(j) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23 is amended in the item relating to section 144 by striking ''replacement and rehabilitation''.

SEC. 1813. DESIGN-BUILD.

Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following in its place:

''(C) QUALIFIED PROJECTS.—A qualified project is a project under this chapter for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.''.

SEC. 1814. INTERNATIONAL FERRIES.

Section 129(c)(5) of title 23, United States Code, is amended—

(1) by striking ''and'' the first place it appears in the first sentence, and inserting a comma;

(2) by adding '', and the islands that comprise a territory of the United States'' after ''Puerto Rico'' in the first sentence; and

(3) by adding ''operations between the islands which comprise a territory of the United States,'' after ''Puerto Rico,'' in the second sentence.

SEC. 1815. ASSUMPTION OF RESPONSIBILITY FOR TRANSPORTATION ENHANCEMENTS, RECREATIONAL TRAILS, AND TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM PROJECTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting the following new section after section 165:

''§ 166. Assumption of responsibility for transportation enhancements, recreational trails, and transportation, community, and system preservation program projects

''(a) ASSUMPTION OF SECRETARY'S RESPONSIBILITIES UNDER APPLICABLE FEDERAL LAWS.—

''(1) IN GENERAL.—Upon mutual agreement the Secretary may assign, and the State may assume, any of the Secretary's responsibilities (except

responsibilities relating to Federally recognized tribes) for environmental reviews, consultation, decision-making or other actions under any Federal law applicable to projects that—

"(A) are funded under section 104(h) or section 167 of this title; or

"(B) meet the definition of a transportation enhancement activity as set forth in section 101(a)(38) of this title.

"(2) LIMITATIONS.—The State shall assume these responsibilities subject to the same procedural and substantive requirements as would be required if such responsibilities were carried out by the Secretary. When a State assumes any responsibility under a Federal law pursuant to this section, it assents to Federal jurisdiction and shall be solely responsible and solely liable for complying with and carrying out that law in lieu of the Secretary.

"(b) AGREEMENTS.—The Secretary and the State shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which such assignments are to be made. In the memorandum of understanding the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and

enforcement of any responsibility of the Secretary it may assume. Such memoranda of understanding shall be established for periods of no more than three years. The Secretary shall review and determine compliance with the memorandum of understanding and the laws assigned by it to the State on an annual basis for the first three years of the agreement and, subsequently, on a periodic basis to be determined by mutual agreement but no longer than every three years.

''(c) TERMINATION.—The Secretary may terminate any assignment of responsibility under this section upon a determination that a State is not adequately meeting the terms and conditions of the memorandum of understanding.

''(d) STATE DEFINED.—For the recreational trails program, ''State'' means the State agency designated by the Governor of the State in accordance with section 206(c)(1) of this title.

''(e) PRESERVATION OF PUBLIC INTEREST CONSIDERATION.—Nothing contained in this section shall be construed to limit the requirements under any applicable law providing for the consideration and preservation of the public interest, including public participation and community values in transportation decision-making.

"(f) STATE SUBJECT TO FEDERAL LAWS.—For purposes of assuming the Secretary's responsibilities under this section, the State agency signing the agreement in subsection (c) is deemed to be a Federal agency to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act, under this title, and under any other Federal law.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting after the item relating to section 165 the following:

"166. Assumption of responsibility for transportation enhancements, recreational trails, and transportation and community and system preservation program projects.".

SEC. 1816. TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.

(a) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.—Chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting the following new section after section 166:

"§ 167. Transportation, community, and system preservation program

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a comprehensive program to investigate and address the relationships between transportation and community and system preservation and identify private sector-based initiatives. Through this program,

the Secretary shall facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address one or more of the following:

"(1) Improve the efficiency of the transportation system.

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

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

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

"(5) Examine development patterns and identify strategies to encourage private sector development patterns which achieve the goals identified in paragraphs (1) through (4).

"(b) FUNDING.—Funds authorized to be apportioned under section 104(q) of this title shall be available to carry out the provisions of this section.".

(b) Section 104 of such title is amended by adding after subsection (p), as added by this Act, the following:

"(q) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.—

"(1) SET-ASIDE.—On October 1 of each fiscal year for fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $26,000,000 of the remaining funds authorized to be apportioned under subsection (b)(3) for carrying out the Transportation, Community, and System Preservation Program under section 167 of this chapter.

"(2) APPORTIONMENT.—

"(A) From amounts set aside under paragraph (1), the Secretary shall apportion $500,000 each fiscal year to each State, including the District of Columbia and Puerto Rico, to carryout the provisions of section 167.

"(B) A State shall also make funds apportioned under this subsection available to metropolitan planning organizations, federally recognized tribes, and local governments in a manner and amounts to be determined by the State to carryout the provisions of section 167.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting after the item relating to section 166 the following:

"167. Transportation, community, and system preservation program.".

SEC. 1817. PROGRAM EFFICIENCES—FINANCE.

Section 115 of title 23, United States Code, is amended—

(1) by striking ''(a)'' and all that follows through subsection (a)(1)(B);

(2) by striking subsection (b);

(3) by redesignating subsection (c) as subsection (d);

(4) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2) respectively; and

(5) by inserting after the section heading the following:

''(a) The Secretary may authorize a State to proceed with a project authorized under this title without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit the State to implementation of projects with the aid of Federal funds previously apportioned or allocated to it or limit a State to implementation of a project with obligation authority previously allocated to it.

''(b) The Secretary, upon the request of the State and execution of a project agreement, may obligate the Federal share, or a portion of the Federal share, of the cost of

a project authorized under this section from any category of funds for which the project is eligible.''.

Subtitle I—Technical Corrections to Title 23, United States Code

SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

(a) LETTING OF CONTRACTS.—Section 112 of title 23, United States Code, is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking ''on the Federal-aid urban system'' and inserting ''on a Federal-aid highway''.

(c) REPEAL OF OBSOLETE SECTIONS OF TITLE 23.—

(1) PRIORITY PRIMARY ROUTES.—Section 147 of title 23, United States Code, is repealed.

(2) DEVELOPMENT OF A NATIONAL SCENIC AND RECREATIONAL HIGHWAY.—Section 148 of title 23, United States Code, is repealed.

(3) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—Section 155 of title 23, United States Code, is repealed.

(4) CONFORMING AMENDMENTS.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 147, 148, and 155.

SEC. 1902. CLARIFICATION OF DATE.

Section 109(g) of title 23, United States Code, is amended in the first sentence by striking ''the day of enactment of the Federal-Aid Highway Act of 1970'' and inserting ''December 31, 1970,''.

SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

(a) IN GENERAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 321;

(3) moved to appear after section 320 of that title; and

(4) amended by striking the section heading and inserting the following:

''§ 321. Signs identifying funding sources''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

''321. Signs identifying funding sources.''.

SEC. 1904. INCLUSION OF "BUY AMERICA" REQUIREMENTS IN TITLE 23.

(a) IN GENERAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 313;

(3) moved to appear after section 312 of that title; and

(4) amended by striking the section heading and inserting the following:

"§ 313. Buy America".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23,United States Code, is amended by inserting after the item relating to section 320 the following:

"313. Buy America.".

(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

(A) in subsection (a), by striking "any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, or the Surface Transportation Assistance Act of 1978"

and inserting ''any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title'';

(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

(C) in subsection (d), by striking ''this Act, the Surface Transportation Assistance Act of 1978, or title 23, United States Code,'' and inserting ''the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title'';

(D) by striking subsection (e); and

(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 1905. TECHNICAL AMENDMENTS TO 23 UNITED STATES CODE 140 (NONDISCRIMINATION).

(a) Section 140(a) of title 23, United States Code, is amended as follows:

(1) At the beginning of the second sentence, strike the word ''He'' and insert in its place the words ''The Secretary''.

(2) In the first sentence, strike ''subsection (a) of section 105'' and insert in its place ''section 135''.

(3) In the third sentence, strike the phrase ''where he considers it necessary'' and insert in its place the phrase ''where necessary''.

(4) The last sentence is amended to read as follows: ''The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary shall deem necessary to carry out the equal employment opportunity program required hereunder.''.

(b) Section 140(b) of title 23, United States Code, is amended as follows:

(1) In the first sentence, strike the words ''highway construction'' and insert ''surface transportation'';

(2) In the second sentence, strike the phrase ''as he may deem necessary'' and insert in its place the phrase ''as necessary'', and strike the phrase ''not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and''.

(3) In the fourth sentence, strike the phrase ''shall not be not be applicable to contracts'' and in-

sert in its place the phrase ''shall not be applicable to contracts''.

(c) The second sentence of section 140(c) of title 23, United States Code, is amended by striking the phrase ''the Secretary shall deduct such sums as he may deem necessary,'' and inserting in its place the phrase ''the Secretary shall deduct such sums as necessary,''.

(d) Section 140(d) of title 23, United States Code, is amended by striking from its catchline the words ''and contracting''.

SEC. 1906. FEDERAL SHARE PAYABLE FOR PROJECTS FOR ELIMINATION OF HAZARDS OF RAILWAY-HIGHWAY CROSSINGS.

Section 120(c) of title 23, United States Code, is amended by amending the first sentence of subsection (c) to read as follows: ''The Federal share payable on account of any project for traffic control signalization; safety rest areas; pavement marking; commuter carpooling and vanpooling; rail-highway crossing closure; projects for elimination of hazards of railway-highway crossings, as identified in section 2604 of Public Law 106–246 (114 Stat. 511, 559); or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles or transit vehicles at sig-

nalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.''.

TITLE II—HIGHWAY SAFETY

SEC. 2001. HIGHWAY SAFETY PROGRAMS.

(a) PERFORMANCE GRANTS.—Section 402 (k) of title 23, United States Code, is amended to read as follows:

''(k) PERFORMANCE GRANTS.—In addition to other grants authorized by this section, the Secretary shall make grants in accordance with this subsection. Funds authorized to carry out this subsection in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering this subsection.

''(1) GENERAL PERFORMANCE GRANTS.—On or before December 31, 2003, and on or before each December 31 thereafter through December 31, 2008, the Secretary shall make grants to States based upon the performance of their highway safety programs in the following categories: (i) motor vehicle crash fatalities; (ii) alcohol-related crash fatalities; and (iii) motorcycle, bicycle, and pedestrian crash fatalities.

"(A) DETERMINATIONS BY THE SECRETARY.—The Secretary, through a rulemaking proceeding, shall determine—

"(i) measures for calculating and scoring performance in each category under this paragraph, using the data for the most recent calendar year for which the data are available from—

"(I) fatality data provided by the National Highway Traffic Safety Administration; and

"(II) vehicle miles traveled determined by the Federal Highway Administration.

"(ii) goals for achievement and annual progress in each category under this paragraph that reflect the potential of each goal to save lives; and

"(iii) a weighting system for all of the goals that reflects the relative potential of each goal to save lives.

"(B) AMOUNT OF GRANTS.—The Secretary shall determine the amount of funds available to a State in a fiscal year for grants under this paragraph, based on the State's achievement or

annual progress in each of the categories under this paragraph, using the measures, goals and weighting system established under this paragraph, the amount appropriated to carry out the grants for such fiscal year, and the ratio that the funds apportioned to the State under section 402(c) for such fiscal year bears to the funds apportioned under section 402(c) for such fiscal year to all the States that qualify for a grant for such fiscal year.

''(2) SAFETY BELT PERFORMANCE GRANTS.

''(A) PRIMARY SAFETY BELT USE LAW.—

''(i) For fiscal years 2004 and 2005, the Secretary shall make a grant to each State that enacted, and is enforcing, a primary safety belt use law for all passenger motor vehicles that became effective by December 31, 2002.

''(ii) For each of fiscal years 2004 through 2009, the Secretary shall, after making grants under paragraph (2)(A)(i) of this subsection, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect a primary safety belt use law

for all passenger motor vehicles, or, in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate in the preceding fiscal year of at least 90 percent, as measured under criteria determined by the Secretary.

''(iii) Of the funds authorized for grants under this subsection, $100,000,000 in each of fiscal years 2004 through 2009 shall be available for grants under this paragraph. The amount of a grant available to a State in each of fiscal years 2004 and 2005 under paragraph (2)(A)(i) of this subsection shall be equal to one-half of the amount of funds apportioned to the State under subsection (c) of this section for fiscal year 2003. The amount of a grant available to a State in fiscal year 2004 or in a subsequent fiscal year under paragraph (2)(A)(ii) of this subsection shall be equal to five times the amount apportioned to the State for fiscal year 2003 under subsection (c). Notwithstanding subsection (d) of this section, the Federal share payable for grants under

this paragraph shall be 100 percent. If the total amount of grants under paragraph (2)(A)(ii) for a fiscal year exceeds the amount of funds available in the fiscal year, grants shall be made to each eligible State, in the order in which its primary safety belt use law became effective or its safety belt use rate reached 90 percent, until the funds for the fiscal year are exhausted. A State that does not receive a grant for which it is eligible in a fiscal year shall receive the grant in the succeeding fiscal year so long as its law remains in effect or its safety belt use rate remains at or above 90 percent. If the total amount of grants under this paragraph for a fiscal year is less than the amount available in the fiscal year, the Secretary shall use any funds that exceed the total amount for grants under paragraph (2)(B) of this subsection.

"(B) SAFETY BELT USE RATE.—

"(i) On or before December 31, 2003, and on or before each December 31 thereafter through December 31, 2008, the Sec-

retary shall make grants to States based upon their safety belt use rate in the preceding fiscal year.

''(ii) The Secretary, through a rulemaking, shall determine measures for calculating and scoring the performance for safety belt use rates, using data for the most recent calendar year for which State safety belt use rate data are available from observational safety belt surveys conducted in accordance with criteria established by the Secretary.

''(iii) Of the funds authorized for grants under this subsection, $25,000,000 for fiscal year 2004, $27,000,000 for fiscal year 2005, $29,000,000 for fiscal year 2006, $31,000,000 for fiscal year 2007, $34,000,000 for fiscal year 2008, and $36,000,000 for fiscal year 2009 shall be available for safety belt use rate grants under this paragraph. The Secretary shall determine the amount of funds available to a State in a fiscal year based on the State's achievement or annual progress in its safety belt use rate, the amount appro-

priated to carry out the grants for such fiscal year, and the ratio that the funds apportioned to the State under section 402(c) for such fiscal year bears to the funds apportioned under section 402(c) for such fiscal year to all the States that qualify for a grant for such fiscal year. Notwithstanding subsection (d) of this section, the Federal share payable for grants under this paragraph shall be 100 percent.

''(C) DEFINITION.—In this paragraph, passenger motor vehicle means a passenger car, pickup truck, van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.

''(3) USE OF GRANTS.—A State allocated an amount for a grant under paragraph (1)(A) of this subsection shall use the amount for activities eligible for assistance under this section, except that it may use up to 50 percent of the amount for activities eligible under section 150 of this title and consistent with the State's strategic highway safety plan under section 151 of this title that are not otherwise eligible for assistance under this section. A State allocated an amount for a grant under paragraph (2)(A)

of this subsection may use the amount for activities eligible for assistance under this section or for activities eligible under section 150 of this title and consistent with the State's strategic highway safety plan under section 151 of this title that are not otherwise eligible for assistance under this section. A State allocated an amount for a grant under paragraph (2)(B) of this subsection, including any amount transferred under paragraph (2)(A) of this subsection, shall use the amount for safety belt use programs eligible for assistance under this section, except that it may use up to 50 percent of the amount for activities eligible under section 150 of this title and consistent with the State's strategic highway safety plan under section 151 of this title that are not otherwise eligible for assistance under this section.''.

(b) IMPAIRED DRIVING GRANTS.—Section 402 of title 23, United States Code, is amended by adding at the end the following subsection:

''(l)(1) IMPAIRED DRIVING GRANTS.—In addition to other grants authorized by this section and subject to the provisions of this subsection, the Secretary shall design and implement a discretionary grant program to develop, demonstrate, and evaluate comprehensive State programs

to reduce impaired driving in States with a high number of alcohol-related fatalities and a high rate of alcohol-related fatalities relative to vehicle miles traveled and population.

"(2) PROCEDURE.—The Secretary shall establish a procedure for submitting grant applications under this subsection, and shall select from among the applicants the States to participate in the program.

"(3) USE OF GRANTS.—A grant to a State under this subsection shall be used only to carry out the State's program under paragraph (1).

"(4) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this subsection in a fiscal year shall be subject to a deduction not to exceed 10 percent for the costs of evaluating the programs and administering the provisions of this subsection.

"(5) FEDERAL SHARE.—Notwithstanding subsection (d) of this section, the Federal share payable for a grant under this subsection shall be—

"(A) 100 percent in the first and second fiscal years in which the State receives a grant;

"(B) 75 percent in the third and fourth fiscal years in which the State receives a grant; and

"(C) 50 percent in the fifth and sixth fiscal years in which the State receives a grant.".

SEC. 2002. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

Section 403(a) (Authority of the Secretary) of title 23, United States Code, is amended by adding the following paragraphs at the end:

"(4) EMERGENCY MEDICAL SERVICES.—In addition to the authority provided under this subsection, the Secretary is authorized to use funds appropriated to carry out this section to enhance coordination among Federal agencies involved with State, local, tribal, and community-based emergency medical services. In exercising this authority, the Secretary may coordinate with State and local governments, the Bureau of Indian Affairs on behalf of Indian tribes, private industry, and other interested parties; collect and exchange emergency medical services data and information; examine emergency medical services needs, best practices, and related technology; and develop emergency medical services standards and guidelines, and plans for the assessment of emergency medical services systems.

"(5) INTERNATIONAL COOPERATION.—In addition to the authority provided under this subsection, the Secretary is authorized to use funds appropriated to carry out this section to participate and cooperate in international activities to enhance high-

way safety by such means as exchanging safety information; conducting safety research; and examining safety needs, best practices, and new technology.

"(6) NATIONAL MOTOR VEHICLE CRASH CAUSATION SURVEY.—In addition to the authority provided under this subsection, the Secretary is authorized to use funds appropriated to carry out this section to develop and conduct a nationally representative survey to collect on-scene motor vehicle crash causation data.".

SEC. 2003. EMERGENCY MEDICAL SERVICES.

(a) FEDERAL COORDINATION AND ENHANCED SUPPORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 of title 23, United States Code, is amended by revising section 407 to read as follows:

"§ 407. Federal coordination and enhanced support of emergency medical services

"(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—

"(1) IN GENERAL.—The Secretary of Transportation and the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, shall es-

tablish a Federal Interagency Committee on Emergency Medical Services (referred to as the 'Interagency Committee on EMS') that shall—

"(A) assure coordination among the Federal agencies involved with State, local, tribal or regional emergency medical services and 9–1–1 systems;

"(B) identify State, local, tribal or regional emergency medical services and 9–1–1 needs;

"(C) recommend new or expanded programs, including grant programs, for improving State, local, tribal or regional emergency medical services and implementing improved EMS communications technologies, including wireless E9–1–1;

"(D) identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services;

"(E) assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs; and

"(F) advise, consult with and make recommendations on matters relating to the implementation of the coordinated State emergency

medical services program established under subsection (b) of this section.

"(2) MEMBERSHIP.—The membership of the Interagency Committee on EMS shall consist of the following officials, or their designees:

"(A) Administrator, National Highway Traffic Safety Administration.

"(B) Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(C) Administrator, Health Resources and Services Administration.

"(D) Director, Centers for Disease Control and Prevention.

"(E) Administrator, United States Fire Administration, Emergency Preparedness and Response Directorate, Department of Homeland Security.

"(F) Director, Center for Medicare and Medicaid Services.

"(G) Undersecretary of Defense for Personnel and Readiness, Department of Defense.

"(H) Assistant Secretary for Public Health Emergency Preparedness, Department of Health and Human Services.

"(I) Director, Indian Health Service, Department of Health and Human Services.

"(J) Chief, Wireless Telecom Bureau, Federal Communications Commission.

"(K) A representative of any other Federal agency identified by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in the purposes of the Interagency Committee on EMS.

"(3) ADMINISTRATION.—The National Highway Traffic Safety Administration, in cooperation with the Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security, shall provide administrative support to the Interagency Committee on EMS, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

"(4) LEADERSHIP.—The members of the Interagency Committee on EMS shall select a chairperson of the Committee annually.

"(5) MEETINGS.—The Interagency Committee on EMS shall meet as frequently as determined necessary by the chairperson of the Committee.

"(6) ANNUAL REPORTS.—The Interagency Committee on EMS shall prepare an annual report to Congress on the Committee's activities, actions, and recommendations.

"(b) COORDINATED NATIONWIDE EMERGENCY MEDICAL SERVICES PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary of Transportation, through the Administrator of the National Highway Traffic Safety Administration, is authorized and directed to cooperate with other Federal departments and agencies, and may assist State and local governments and EMS organizations, both fire-based and otherwise, private industry, and other interested parties, to ensure the development and implementation of a coordinated nationwide emergency medical services program designed to strengthen transportation safety and public health and to implement improved EMS communication systems including 9–1–1. For the purposes of this section, the term 'State' means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Com-

monwealth of the Northern Mariana Islands, and the Secretary of the Interior on behalf of Indian Tribes.

"(2) COORDINATED STATE EMERGENCY MEDICAL SERVICES PROGRAM.—Each State shall establish a program, approved by the Secretary, to coordinate the emergency medical services and resources deployed throughout the State, so as to ensure improved EMS communication systems including 9–1–1, utilization of established best practices in system design and operations, implementation of quality assurance programs, and incorporation of data collection and analysis programs that facilitate system development and data linkages with other systems and programs useful to emergency medical services.

"(3) ADMINISTRATION OF STATE PROGRAMS.—The Secretary may not approve a coordinated State emergency medical services program under this subsection unless the program—

"(A) provides that the Governor of the State is responsible for its administration through a State office of emergency medical services that has adequate powers and is suitably equipped and organized to carry out such

program and coordinates such program with the highway safety office of the State; and

"(B) authorizes political subdivisions of the State to participate in and receive funds under such program, consistent with goal of achieving statewide coordination of emergency medical services and 9–1–1 activities.

"(4) USE OF FUNDS; ADMINISTRATIVE EXPENSES; APPORTIONMENTS.—Funds authorized to be appropriated to carry out this subsection shall be used to aid the States in conducting coordinated emergency medical services and 9–1–1 programs that are in accordance with the provisions of paragraph (2). Such funds shall be subject to a deduction not to exceed 10 percent for the necessary costs of administering the provisions of this subsection, and the remainder shall be apportioned among the States. Such funds shall be apportioned as follows: 75 percent in the ratio that the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States. For the purpose of this subsection, a 'public road' means any road under the jurisdiction

of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year prior to the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than one-half of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior on behalf of Indian tribes shall not be less than three-fourths of 1 percent of the total apportionment, and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

''(5) CONTRACT AUTHORITY.—The provisions contained in section 402(d) of this chapter shall apply to this subsection.

''(6) FEDERAL SHARE.—The Federal share of the cost of a project or program funded under this subsection shall be 80 percent.

''(7) APPLICATION IN INDIAN COUNTRY.—

''(A) USE OF TERMS.—For the purpose of application of this subsection in Indian country,

the terms 'State' and 'Governor of the State' include the Secretary of the Interior and the term 'political subdivisions of the State' includes an Indian tribe.

"(B) INDIAN COUNTRY DEFINED.—In this subsection, the term 'Indian country' means—

"(i) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

"(ii) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.".

(b) The item relating to section 407 in the analysis of chapter 4 of title 23, United States Code, is amended to read as follows:

"407. Federal coordination and enhanced support of emergency medical services.".

SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

(a) Chapter 4 of title 23, United States Code, is amended by adding the following section:

"§ 412. State traffic safety information system improvements

"(a) GENERAL AUTHORITY.—

"(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to—

"(A) improve the timeliness, accuracy, completeness, uniformity, integration and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

"(B) evaluate the effectiveness of efforts to make such improvements;

"(C) link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway and economic data; and

"(D) improve the compatibility and interoperability of the data systems of the State

with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. Recipient States may use such grants only to implement such programs.

"(2) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze State and national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall certify to the Secretary the State's adoption and use of such model data elements.

"(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require ensuring that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this Act.

"(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a program of a State pursuant to paragraph (1) shall not exceed 80 percent.

"(b) FIRST-YEAR GRANTS.—

"(1) ELIGIBILITY.—To be eligible for a first-year grant under this section in a fiscal year, a State must demonstrate to the satisfaction of the Secretary that the State has—

"(A) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

"(B) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system and is approved by the highway safety data and traffic records coordinating committee and—

"(i) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

"(ii) prioritizes, based on the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a)(1);

"(iii) identifies performance-based measures by which progress toward those goals will be determined;

"(iv) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan; and

"(v) includes a current report on the progress in implementing the multiyear plan that documents progress toward the specified goals.

"(2) GRANT AMOUNTS.—The amount of a first-year grant to a State for a fiscal year shall equal an amount determined by multiplying—

"(A) the amount appropriated to carry out this section for such fiscal year; by—

"(B) the ratio that the funds apportioned to the State under section 402 of this chapter for fiscal year 2003 bears to the funds appor-

tioned to all States under section 402 for fiscal year 2003;

except that no State eligible for a grant under this section shall receive less than $300,000.

"(c) SUCCEEDING-YEAR GRANTS.—

"(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

"(A) submits an updated multiyear plan that meets the requirements of subsection (b)(1)(B);

"(B) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

"(C) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan;

"(D) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

"(E) includes a current report on the progress in implementing the multiyear plan.

"(2) GRANT AMOUNTS.—The amount of a succeeding year grant made to a State for a fiscal year under this paragraph shall equal an amount determined by multiplying—

"(A) the amount appropriated to carry out this section for such fiscal year; by

"(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under section 402 for fiscal year 2003; except that no State eligible for a grant under this paragraph shall receive less than $500,000.

"(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

"(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by inserting the following at the end:

"412. State traffic safety information system improvements.".

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund

(other than the Mass Transit Account) for the National Highway Traffic Safety Administration:

(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

(A) To carry out the State and Community Highway Safety Grant Program under section 402 of title 23, United States Code, except for subsections (k) and (l), $162,000,000 for fiscal year 2004, $167,000,000 for fiscal year 2005, $172,000,000 for fiscal year 2006, $177,000,000 for fiscal year 2007, $183,000,000 for fiscal year 2008, and $189,000,000 for fiscal year 2009.

(B) To carry out the performance grant programs under subsection (k) of section 402 of title 23, United States Code, $175,000,000 for fiscal year 2004, $179,000,000 for fiscal year 2005, $183,000,000 for fiscal year 2006, $189,000,000 for fiscal year 2007, $195,000,000 for fiscal year 2008, and $201,000,000 for fiscal year 2009.

(C) To carry out the impaired driving grants under subsection (l) of section 402 of title 23, United States Code, $50,000,000 for each of fiscal years 2004 through 2009.

(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—To carry out the highway safety research and development program under section 403 of title 23, United States Code, $88,452,000 for fiscal year 2004, $90,000,000 for fiscal year 2005, $92,000,000 for fiscal year 2006, $94,000,000 for fiscal year 2007, $96,000,000 for fiscal year 2008, and $99,000,000 for fiscal year 2009.

(3) EMERGENCY MEDICAL SERVICES GRANTS.—To carry out section 407 of title 23, United States Code, $10,000,000 for each of fiscal years 2004 through 2009.

(4) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS GRANTS.—To carry out section 412 of title 23, United States Code, $50,000,000 for each of fiscal years 2004 through 2009.

(5) NATIONAL DRIVER REGISTER.—To carry out chapter 303 (National Driver Register) of title 49, United States Code, $3,600,000 for fiscal year 2004, and $4,000,000 for each of fiscal years 2005 through 2009.

(b) ALLOCATIONS.—

(1) EMERGENCY MEDICAL SERVICES ACTIVITIES.—Out of amounts appropriated pursuant to subsection (a)(2), the Secretary may use $2,226,000

in each fiscal year to carry out paragraph (4) of section 403(a) of title 23, United States Code.

(2) INTERNATIONAL COOPERATION ACTIVITIES.—Out of amounts appropriated pursuant to subsection (a)(2), the Secretary may use $200,000 in each fiscal year to carry out paragraph (5) of section 403(a) of title 23, United States Code.

(3) NATIONAL MOTOR VEHICLE CRASH CAUSATION SURVEY.—Out of the amounts appropriated pursuant to subsection (a)(2), the Secretary may use $10,000,000 in each fiscal year to carry out paragraph (6) of section 403(a) of title 23, United States Code.

(c) APPLICABILITY OF TITLE 23.—(1) Amounts made available under subsection (a)(2) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(2) Notwithstanding section 402(d) of title 23, United States Code, the funds authorized by subsection (a)(1) that are apportioned or allocated in a State shall remain available for obligation in that State for a period of two years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or

allocated that remain unobligated at the end of that period shall lapse.

SEC. 2006. REPEAL OF OBSOLETE PROVISIONS OF TITLE 23.

(a) REPEAL OF OBSOLETE PROVISIONS.—Sections 406 and 408 of title 23, United States Code, are repealed.

(b) CONFORMING AMENDMENT.—The items relating to sections 406 and 408 in the analysis of chapter 4 of title 23, United States Code, are deleted.

TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

SEC. 3001. SHORT TITLE.

This title may be cited as the ''Federal Public Transportation Act of 2003''.

SEC. 3002. UPDATED TERMINOLOGY; AMENDMENTS TO TITLE 49, UNITED STATES CODE.

(a) UPDATED TERMINOLOGY.—Chapter 53 of title 49, United States Code, including the chapter analysis, is amended by striking ''mass'' each place it appears before ''transportation'' and inserting ''public'', except in sections 5301(f), 5302(a)(7), 5315, 5323(a)(1), and 5323(a)(1)(B).

(b) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the

reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) IN GENERAL.—Section 5301(a) is amended to read as follows:

''(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems that maximize the efficient, secure, and safe mobility of individuals, and minimize environmental impacts and reliance on foreign oil.''.

(b) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended by—

(1) striking ''an urban'' and inserting ''a''; and

(2) striking ''under sections 5309 and 5310 of this title''.

(c) GENERAL PURPOSES.—Section 5301(f) is amended—

(1) in paragraph (1) by—

(A) striking ''mass'' after ''improved'' and inserting ''public''; and

(B) striking ''public and private mass transportation companies and inserting ''both

public transportation companies and private companies engaged in public transportation'';

(2) in paragraphs (2) and (3) by—

(A) striking ''urban mass'' after ''areawide'' and inserting ''public'', and

(B) striking ''public and private mass transportation companies'' and inserting ''both public transportation companies and private companies engaged in public transportation''; and

(3) in paragraph (5), by striking ''urban mass'' and inserting ''public''.

SEC. 3004. DEFINITIONS.

(a) IN GENERAL.—Section 5302 is amended to read as follows:

''§ 5302. Definitions

''(a) IN GENERAL.—In this chapter, the following definitions apply:

''(1) 'access to jobs project' means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and low-income individuals to and from jobs and activities related to their employment, including—

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

"(B) promoting public transportation by low-income workers;

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

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

"(1a) 'capital project' means a project for—

"(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

"(B) rehabilitating a bus;

"(C) remanufacturing a bus;

"(D) overhauling rail rolling stock;

"(E) preventive maintenance;

"(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

"(G) a public transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a public transportation facility, and the renovation and improvement of historic transportation facilities, because the improvement enhances the effectiveness of a public transportation project and is related physically or functionally to that public transportation project, or establishes new or enhanced coordination between public transportation and other transportation, and provides a fair share of revenue for public transportation that will be used for public transportation—

"(i) including property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, safety and security equipment and facilities (including lighting, surveillance and related intelligent transportation system applications), facilities that incorporate community services such as daycare or health care, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall, except that a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means; and

"(ii) excluding construction of a commercial revenue-producing facility or a part of a public facility not related to public transportation; and

"(H) the introduction of new technology, through innovative or improved products, into public transportation;

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

"(J) crime prevention and security—

"(i) including—

"(I) projects to refine and develop security and emergency response plans;

"(II) projects aimed at detecting chemical and biological agents in public transportation;

"(III) the conduct of emergency response drills with public transportation agencies and local first response agencies; or

"(IV) security training for public transportation employees; but,

"(ii) excluding all expenses related to operations, except for such expenses incurred in the provisions of activities under clauses (III) and (IV) of this subparagraph; or

"(K) establishment of a debt service reserve made up of deposits with a bondholders' trustee in a non-interest bearing account for the purpose of assuring timely payment of principal and interest on bonds issued by a grant recipient for purposes of financing an eligible project under this chapter; and

"(L) remediation associated with construction of a capital project as described this paragraph on a brownfield site as defined in 42 U.S.C. 9601.

"(2) 'chief executive officer of a State' includes the designee of the chief executive officer.

"(3) 'emergency regulation' means a regulation—

"(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

"(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

"(i) would injure seriously an important public interest;

"(ii) would frustrate substantially legislative policy and intent; or

"(iii) would damage seriously a person or class without serving an important public interest.

"(4) 'fixed guideway' means a public transportation facility—

"(A) using and occupying a separate right-of-way or rail for the exclusive use of public transportation and other high occupancy vehicles; or

"(B) using a fixed catenary system and a right-of-way usable by other forms of transportation.

"(5) 'individual with a disability' means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without

special facilities, planning, or design, public transportation service or a public transportation facility.

"(6) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least 1 State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of a State.

"(7) 'mass transportation' means public transportation.

"(7a) 'mobility management' means an activity or project that involves one or more of the following goals:

"(A) Addressing public transportation customer needs.

"(B) Tailoring public transportation services to specific market niches.

"(C) Managing public transportation demand.

"(D) Land use compatibility with public transportation services.

"(E) Improving coordination among public transportation providers and other transportation service providers.

"(8) 'net project cost' means the part of a project that reasonably cannot be financed from revenues.

"(9) 'new bus model' means a bus model (including a model using alternative fuel)—

"(A) that has not been used in public transportation in the United States before the date of production of the model; or

"(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

"(10) 'public transportation' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation.

"(10a) 'recipient' means an entity that receives Federal transit program assistance directly from the Federal government.

"(11) 'regulation' means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

"(11a) 'reverse commute project' means a public transportation project designed to transport resi-

dents of urban areas, urbanized areas, and areas other than urbanized areas to suburban employment opportunities, including any projects to—

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

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

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

"(12) 'Secretary' means the Secretary of Transportation.

"(13) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands, except as defined in section 5305 of this title.

"(13a) 'subrecipient' means an entity that receives Federal transit program assistance indirectly

through a recipient, rather than directly from the Federal government.

"(14) 'transit' means public transportation.

"(15) 'transit enhancement' means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

"(A) historic preservation, rehabilitation, or operation of historic public transportation buildings, structures, or facilities (including historic bus or railroad facilities);

"(B) bus shelters;

"(C) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights;

"(D) public art;

"(E) pedestrian access or walkways;

"(F) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

"(G) transit connections to parks within the recipient's transit service area;

"(H) signage; and

"(I) enhanced access for individuals with disabilities to public transportation.

"(16) [reserved]

"(17) 'urbanized area' means an area encompassing a population of at least 50,000 people that has been defined and designated in the latest decennial census as an 'urbanized area' by the Secretary of Commerce.

"(18) 'welfare recipient' means an individual who receives or received aid or assistance under a State or tribal program funded under part A of title IV of the Social Security Act (whether in effect before or after the effective date of the amendments made by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2110)) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

"(b) AUTHORITY TO MODIFY 'INDIVIDUAL WITH A DISABILITY'.—The Secretary may by regulation modify the definition of the term 'individual with a disability' in subsection (a)(5) as it applies to section 5307(d)(1)(D).".

(b) CONFORMING AMENDMENT.—Section 5321 is repealed.

SEC. 3005. METROPOLITAN PLANNING.

The text of section 5303 is amended to read as follows: ''Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the metropolitan planning provisions of chapter 52 of this title.''.

SEC. 3006. STATEWIDE PLANNING.

(a) SECTION HEADING.—Section 5304 is amended by striking the section heading and inserting the following: **''§ 5304. Statewide planning''.**

(b) The text of section 5304 is amended to read as follows: ''Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the statewide planning provisions of chapter 52 of this title.''.

(c) CONFORMING AMENDMENT.—The item relating to section 5304 in the table of sections for chapter 53 is amended to read as follows:

''5304. Statewide planning.''.

SEC. 3007. PLANNING PROGRAMS.

(a) IN GENERAL.—Section 5305 is amended to read as follows:

''§ 5305. Planning programs

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

"(1) 'State' means a State of the United States, the District of Columbia, and Puerto Rico, and

"(2) 'planning emphasis area' means priority themes identified by the Secretary for consideration in sections 5303 and 5304 of this title.

"(b) GENERAL AUTHORITY.—Under criteria the Secretary establishes, the Secretary may make grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, or may make agreements with other departments, agencies, and instrumentalities of the Government, or may enter into contracts with private non-profit or for-profit entities for development of, transportation plans and programs and to plan, engineer, design, and evaluate a public transportation project and for other technical studies, including—

"(1) studies related to management, planning, operations, capital requirements, and economic feasibility;

"(2) evaluating previously financed projects;

"(3) peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners; and,

"(4) other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

"(c) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated or made available under section 5338 of this title to carry out this section and sections 5303 and 5304 of this title are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(d) METROPOLITAN PLANNING PROGRAM.—

"(1) The Secretary shall apportion 80 percent of the amount made available under subsection (h)(2)(A) of this section to States to carry out sections 5303 and 5306 of this title in a ratio equal to the population in urbanized areas in each State divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population. A State may not receive less than .5 percent of the amount apportioned under this paragraph.

"(2) Amounts apportioned to a State under paragraph (1) of this subsection shall be made avail-

able promptly after allocation to metropolitan planning organizations in the State designated under this section under a formula—

"(A) the State develops in cooperation with the metropolitan planning organizations;

"(B) the Secretary of Transportation approves; and

"(C) that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

"(3) The Secretary shall apportion 20 percent of the amount made available under subsection (h)(2)(A) of this section to States to supplement allocations made under paragraph (1) of this subsection for metropolitan planning organizations. Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under sections 5303 and 5306 of this title in complex metropolitan planning areas.

"(e) STATE PLANNING AND RESEARCH PROGRAM.—

"(1) The amounts made available pursuant to subsection (h)(2)(B) of this section shall be apportioned to States for grants and contracts to carry

out sections 5303–5306, 5315, and 5322 of this title. The amounts shall be apportioned so that each State receives an amount equal to the population in urbanized areas in the State, divided by the population in urbanized areas in all States, as shown by the latest available decennial census. However, a State must receive at least .5 percent of the amount apportioned under this subsection.

"(2) A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (d) of this section.

"(f) PLANNING CAPACITY BUILDING PROGRAM.—

"(1) The Secretary shall establish a Planning Capacity Building Program to support and fund innovative practices and enhancements in transportation planning. The purpose of this program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304 of this chapter.

"(2) Funding available under subsection (h)(1) of this section to carry out this subsection will support—

"(A) incentive grants to state, metropolitan planning organizations, and public transportation operators; and

"(B) research, information dissemination, and technical assistance.

"(3) The Secretary may use the funds for the purpose described in paragraph (2)(B) independently or make grants to, or enter into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education, to carry out the purposes of this subsection.

"(4) The program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

"(g) GOVERNMENT'S SHARE OF COSTS.—

"(1) Amounts made available to carry out subsections (d), (e) and (f) of this section may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation decides it is in the interests of the Government not to require a State or local match.

"(2) When there are planning emphasis areas funded under a grant or contract financed under

this section, the Secretary may establish a Government share consistent with the planning emphasis area benefit.

''(h) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under section 5338(a)(2)(A) and (B) and 5338(b)(3)(A) and (B) of this title for fiscal years 2004 through 2009,

''(1) $5,000,000 shall be available for the planning capacity building program under subsection (f) of this section; and

''(2) of the remaining amount,

''(A) 82.72 percent shall be available for metropolitan planning program under subsection (d) of this section; and

''(B) 17.28 percent shall be available to carry out subsections (b) and (e) of this section.

''(i) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section that remains available for 3 years after the fiscal year in which the amount is apportioned shall be reapportioned among the States.''.

(b) CONFORMING AMENDMENT.—The item relating to section 5305 in the table of sections for chapter 53 is amended to read as follows:

''5305. Planning programs.''.

SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

(a) SECTION HEADING.—Section 5306 is amended by striking the section heading and inserting the following:

"§ 5306. Private enterprise participation in metropolitan planning and statewide planning".

(b) CONFORMING AMENDMENT.—The item relating to section 5306 in the table of sections for chapter 53 is amended to read as follows:

"5306. Private enterprise participation in metropolitan planning and statewide planning.".

SEC. 3009. URBANIZED AREA PUBLIC TRANSPORTATION FORMULA GRANTS PROGRAM.

(a) SECTION HEADING.—Section 5307 is amended by striking the section heading and inserting the following:

"§ 5307. Urbanized area public transportation formula grants program".

(b) TECHNICAL AMENDMENTS.—Section 5307 is amended by—

(1) striking subsections (h), (j) and (k); and

(2) redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(c) DEFINITIONS.—Section 5307(a) is amended to read as follows:

"(a) DEFINITIONS.—In this section:

"(1) 'designated recipient' means—

"(A) an entity designated, consistent with the planning process under sections 5303–5306 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts under sections 5336 and 5337 of this title that are attributable to transportation management areas established under section 5303 of this title; or

"(B) a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

"(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal government.".

(d) GENERAL AUTHORITY.—Section 5307(b) is amended—

(1) by striking paragraph (1) and inserting a new paragraph (1) as follows:

"(1) The Secretary of Transportation may make grants under this section for—

"(A) capital projects;

"(B) planning and mobility management;

"(C) transit enhancements; and

"(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000.";

(2) by striking paragraphs (2) and (4);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) in redesignated paragraph (2), by striking "5305(a)" and inserting "5303".

(e) GRANT RECIPIENT REQUIREMENTS.—Section 5307(d) is amended—

(1) in paragraph (1)(A), by inserting ", including safety and security aspects of the program" after "capacity";

(2) in paragraph (1)(E), by striking everything that appears after "section" and inserting "the recipient will comply with section 5323 and 5325 of this title";

(3) in paragraph (1)(H), by striking "5310(a)–(d)";

(4) by striking paragraph (1)(I);

(5) by redesignating paragraph (1)(J) as paragraph (1)(I); and

(6) by adding at the end of subsection (f)(1), as redesignated, the following:

"(J) with a population of at least 200,000 in its urbanized area will expend one percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15) of this title.".

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e), is amended—

(1) in the first sentence, by striking "(including associated capital maintenance items)"; and

(2) in the fourth sentence, by striking "that are more than the amount of those revenues in the fiscal year that ended September 30, 1985" and inserting "and amounts received under a service agreement with a State or local social service agency or a private social service organization".

(g) UNDERTAKING PROJECTS IN ADVANCE.—Section 5307(g) is amended by striking paragraph (4).

(h) REVIEWS, AUDITS, AND EVALUATIONS.—Section 5307(h), as redesignated, is amended in paragraph (1) (A) by striking "shall" and inserting "may".

(i) RELATIONSHIP TO OTHER LAWS.—Section 5307(k), as redesignated, is amended to read as follows:

"(k)(1) Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335" of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

"(2) The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15, title 5, U.S.C., any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.".

(j) CONFORMING AMENDMENTS.—

(1) The item relating to section 5307 in the table of sections for chapter 53 is amended to read as follows:

"5307. Urbanized area public transportation formula grants program.".

(2) Section 3037 of the Transportation Equity Act for the 21st Century, Public Law 105–178, as amended, is repealed.

SEC. 3010. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:—

''(a) DEFINITIONS.—In this section—

''(1) 'recipient' means a State that receives a Federal transit program grant directly from the Federal government.

''(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal government.''.

(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

(1) by revising paragraph (1) to read as follows:

''(1) Except as provided in paragraph (2) of this subsection, the Secretary may make grants to areas other than urbanized areas under this section for the following:

''(A) public transportation capital projects;

''(B) operating costs of equipment and facilities for use in public transportation; and

''(C) the acquisition of public transportation services.'';

(2) by redesignating paragraph (2) as paragraph (3) and inserting a new paragraph (2), as follows:

''(2) A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other federal sources.'';

(3) In paragraph (3), as redesignated, by inserting ''use not more than 2 percent of the amount made available to carry out this section to'' before ''make''; and

(4) by adding after paragraph (3) the following:

''(4) Of the amount available to carry out paragraph (3), not more than 15 percent may be used to carry out projects of a national scope, with the remaining balance provided to the States.''.

(c) APPORTIONING AMOUNTS.—Subsection (c) is amended to read as follows:

"(c) APPORTIONMENTS.—

"(1) The amounts made available under section 5338(a)(2)(K) shall be apportioned as follows:

"(A) For each eligible State in accordance with paragraph (2) of this subsection:

"(i) $2,500,000 in fiscal year 2004.

"(ii) Three percent in fiscal year 2005.

"(iii) Five percent in fiscal year 2006.

"(iv) Seven percent in fiscal year 2007.

"(v) Nine percent in fiscal year 2008.

"(vi) Ten percent in every fiscal year thereafter.

"(B) Remaining amounts shall be apportioned to each State in accordance with paragraph (3) of this subsection.

"(2)(A) Of the amounts to be apportioned under paragraph (1)(A) of this subsection, the Secretary may use the following amounts to make grants to establish data collection systems capable of collecting the data in subparagraph (C) of this paragraph:

"(i) 100 percent in fiscal year 2004.

"(ii) $1,500,000 in fiscal year 2005.

"(iii) $500,000 in fiscal year 2006.

"(B) Amounts under subparagraph (A) of this paragraph not obligated within three years following the end of the fiscal year in which those amounts became available shall be available for apportionment under subparagraph (C) of this paragraph.

"(C) The remaining amounts to be apportioned under paragraph (1)(A) of this subsection shall be apportioned by a formula determined by the Secretary that distributes funds based on increases in public transportation patronage in other-than-urbanized areas.

"(D) In apportioning funds under subparagraph (C) of this paragraph, the Secretary may consider the efficiency of service provision in the non-urbanized areas in the State.

"(3) Each State shall receive an amount equal to the remaining amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent Federal government decennial census of population.".

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended by striking—

(1) ''Use for administration and technical assistance. (1)'' and inserting ''Use for administration, planning, and technical assistance.''; and

(2) ''to a recipient'' after ''technical assistance''; and

(3) paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1), by striking ''after September 30, 1993,''; and

(2) by inserting at the beginning of paragraph (2) ''After consultation with affected intercity bus service providers,''.

(f) GOVERNMENT'S SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

''(g) GOVERNMENT'S SHARE OF COSTS.—

''(1) A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. A grant made under this section for operating assistance may not exceed 50 percent of the net oper-

ating costs of the project, as determined by the Secretary. The remainder—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(2) A state carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

"(3) For purposes of paragraph (2)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.".

(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311(h) is amended to read as follows:

"(h) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

"(1) In this subsection, the term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(2)(A) The Secretary shall establish and carry out through the States a program to provide grants to Indian tribes to operate, maintain, and establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

"(B) The state may waive or reduce the amount of local share required for these grants.

"(3) Notwithstanding any other provision of law, for each fiscal year, of the amount made available to carry out this section under section 5338(a)(2)(K) for the fiscal year, the Secretary shall make available $10,000,000 to carry out this subsection.

"(4) Of the funds made available pursuant to paragraph (3) of this subsection,

"(A) $9,500,000 shall be apportioned to the states based on a ratio equal to the tribal

population in each state divided by the total tribal population in all states, as shown by the latest decennial census of population for allocation to existing Indian tribal rural transit programs and to plan and establish new Indian tribe rural transit programs;

"(B) prior to distribution by states of in-state amounts to Indian tribes, each State may use up to 5 percent for state administration;

"(C) amounts apportioned to a state under paragraph (A) of this subsection shall be distributed to Indian tribes in the state based on an allocation plan—

"(i) the state develops in cooperation with Indian tribes;

"(ii) the Secretary approves; and

"(iii) that provides an appropriate distribution for funding the needs of existing and new Indian Reservation Rural Transit Systems; and

"(D) $500,000 shall be available to the Secretary to provide technical assistance, including best practices and outreach, to the states and tribes through grants, contracts, or other arrangements and shall be in addition to

and not in lieu of other funds available for these purposes.

"(5) An amount apportioned to the states under this subsection—

"(A) remains available for 3 years after the fiscal year in which the amount was apportioned; and

"(B) shall be reapportioned among the states if unobligated at the end of the 3-year period.".

(h) RELATIONSHIP TO OTHER LAWS.—Section 5311(j) is amended to read as follows:

"(j) RELATIONSHIP TO OTHER LAWS.—

"(1) Except as provided in subparagraphs (2) and (3) of this subsection, a grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

"(2) Sections 5323(a)(1)(D) and 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

"(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for

private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

''(4) This subsection does not affect or discharge a responsibility of the Secretary under a law of the United States.''.

SEC. 3011. NEW FREEDOM PROGRAM.

(a) Chapter 53 of title 49, United States Code, is amended by inserting after section 5316 the following:

"§ 5317. New Freedom program

''(a) DEFINITIONS.—In this section—

''(1) 'recipient' means a State that receives a grant under this section directly.

''(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a grant under this section indirectly through a recipient, rather than directly from the Federal government.''.

''(b) GENERAL AUTHORITY.—

''(1) The Secretary of Transportation may provide grants to recipients for new transportation services and transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including motor vehicle programs that assist persons with disabilities

with transportation to and from jobs and employment support services.

"(2) A recipient may use not more than 15 percent of the amounts apportioned under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(c) APPORTIONMENTS.—

"(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(H) of this title under a formula the Secretary administers.

"(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any funds transferred pursuant to this subsection shall be made available only for eligible projects selected under this section.

"(d) GRANT REQUIREMENTS.—

"(1) Except as provided in paragraphs (2) and (3) of this subsection, a grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

"(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

"(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

"(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

"(e) COMPETITIVE PROCESS.—

"(1) The recipient shall conduct a statewide solicitation for applications for grants under this section.

"(2) Subrecipients seeking to receive a grant under this section shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

"(3) Subrecipients submitting applications pursuant to paragraph (2) shall be selected on a competitive basis.

"(f) COORDINATION.—

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

"(2) A recipient that transfers funds to section 5336 pursuant to subsection (c)(2) shall certify that

the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

"(3) A recipient of funds under this section shall certify that—

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

"(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

"(g) GOVERNMENT'S SHARE OF COSTS.—

"(1) A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The remainder may be—

"(A) provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a

State or local social service agency or a private social service organization, or new capital; and

"(B) derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(2) A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

"(3) For purposes of paragraph (1)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended after the item relating to section 5316 by adding the following:

"5317. New Freedom program.".

SEC. 3012. MAJOR CAPITAL INVESTMENT PROGRAM.

(a) MAJOR CAPITAL INVESTMENT PROGRAM.—Section 5309 is amended to reads as follows:

"§ 5309. Major capital investment grants

''(a) GENERAL AUTHORITY.—

''(1) The Secretary of Transportation may make grants under this section to State and local governmental authorities to assist them and their subrecipients in financing capital projects for—

''(A) new fixed guideway systems, extensions to existing fixed guideway systems, and related project activities;

''(B) the capital costs of coordinating public transportation with other transportation;

''(C) the introduction of new technology, through innovative or improved products, into public transportation; or

''(D) the development of corridors to support public transportation, including protecting rights of way through acquisition, construction of dedicated bus and high occupancy vehicle lanes or park and ride lots, or other capital improvements that the Secretary may decide would result in increased public transportation usage in the corridor.

''(2) The Secretary shall require that a grant under this subsection be subject to the terms, conditions, requirements, and provisions the Secretary decides are necessary or appropriate for the purposes

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

"(b) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—

"(1) The Secretary may not approve a grant for a project under this section unless the Secretary finds that the project is part of an approved transportation plan and program of projects required under sections 5303–5306 of this title, and that the applicant has or will have the legal, financial, and technical capacity to carry out the project (including safety and security aspects of the project), satisfactory continuing control over the use of the equipment or facilities, and the capability and willingness to maintain the equipment or facilities.

"(2) An applicant that has submitted a certification required by section 5307(d)(1) (A)–(C) and (H) of this title shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

"(c) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS OF $75,000,000 OR MORE.—

"(1) A project financed under this subsection shall be carried out through a full funding grant

agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under this subsection. The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction and has been rated as 'medium,' 'medium-high,' or 'high,' as defined in this subsection.

''(2) The Secretary may approve a grant under this section for a major capital project only if the Secretary makes the following determinations, based upon evaluations and considerations as set forth below:

''(A) The Secretary may approve a grant under this section for a major capital project only if the Secretary determines that the proposed project is—

''(i) based on the results of an alternatives analysis and preliminary engineering;

''(ii) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, transit supportive policies and existing land use; and

"(iii) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain, and operate the entire public transportation system.

"(B) Before making the determinations required by paragraph (2)(A), the Secretary shall first analyze, evaluate, and consider the following factors:

"(i) In evaluating a project for purposes of making the finding required by paragraph (2)(A)(i), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

"(ii) In evaluating a project for purposes of making the finding required by paragraph (2)(A)(ii), the Secretary shall—

"(I) consider the direct and indirect costs of relevant alternatives;

"(II) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancil-

lary and mitigation costs necessary to carry out each alternative analyzed, and recognize reductions in local infrastructure costs achieved through compact land use development;

''(III) identify and consider public transportation supportive existing land use policies and future patterns, and the cost of suburban sprawl;

''(IV) consider the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

''(V) consider population density and current transit ridership in the corridor;

''(VI) consider the technical capability of the grant recipient to construct the project;

''(VII) adjust the project justification to reflect differences in local land, construction, and operating costs; and

"(VIII) consider other factors that the Secretary determines appropriate to carry out this chapter.

"(iii) In evaluating a project under paragraph (2)(A)(iii), the Secretary shall require that—

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

"(II) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

"(III) local resources are available to operate the overall proposed public transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing public transportation services to operate the proposed project.

"(iv) In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(A)(iii), the Secretary shall consider—

"(I) existing grant commitments;

"(II) the degree to which financing sources are dedicated to the purposes propose;

"(III) any debt obligation that exists or is proposed by the recipient for the proposed project or other public transportation purpose; and

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

"(3) A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements. In making the findings, the Secretary shall evaluate

and rate the project as 'high,' 'medium-high,' 'medium,' 'low-medium,' or 'low,' based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

''(d) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—If the assistance provided under this section is less than $75,000,000, the project shall be subject to the requirements set forth in subsection (c) of this section only to the extent the Secretary determines appropriate.

''(e) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (c) and (d) of this section do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2003.

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

''(1)(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obli-

gate, for a major capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

''(B) At least 30 days before issuing a letter under subparagraph (A) of this paragraph or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and the House and Senate Committees on Appropriations of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.

''(C) The issuance of a letter is deemed not to be an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31, U.S.C., or an administrative commitment.

"(D) An obligation or administrative commitment may be made only when amounts are appropriated.

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

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

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

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

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

"(B) An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation

of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

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

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

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

"(B) A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier. A work agreement shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization. Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms. If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement

plus reasonable interest and penalty charges the Secretary establishes in the agreement.

"(4)(A) The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements may be not more than the greater of the amount authorized under section 5338(b) of this title for major capital investment projects or an amount equivalent to the last 3 fiscal years of funding authorized under section 5338(b)(3)(C) for major capital investment projects, less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements may be not more than a limitation specified in law.

"(B) Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, as amended, for the San Francisco BART to the Airport project for

fiscal years 2002, 2003, 2004, 2005 and 2006 shall be charged against section 3032(g)(2) of that Act.

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

"(1) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost. A grant for the project shall be for 50 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

"(2) The remainder—

"(A) shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

"(B) may include up to 30 percent from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

"(3) In addition to amounts allowed pursuant to paragraph (1) of this subsection, a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than

amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

"(4) The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act shall not apply to amounts allowed pursuant to paragraph (2) of this subsection.

"(5) This subsection does not apply to projects for which the Secretary of Transportation has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2003.

"(h) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (g) of this section, the Secretary may also give consideration to 'high,' 'medium-high,' or 'medium' projects sponsored by grant applicants and State and local governments of constrained fiscal capacity in selecting projects for full funding grant agreements.

"(i) PRELIMINARY ENGINEERING.—Not more than 8 percent of the amounts made available in each fiscal year

to carry out this section may be available for preliminary engineering.

"(j) UNDERTAKING PROJECTS IN ADVANCE.—

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

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

"(B) the Secretary approves the payment; and

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

"(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of bor-

rowing. The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

"(3) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

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

"(l) REPORTS.—

"(1) Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, as well as the Subcommittee on Transportation of the Committees on Appropriations of both Houses, a report that may include—

"(A) an allocation of amounts to be available to finance grants for capital investment projects among applicants for these amounts;

"(B) an assessment of projects for funding based on the evaluations and ratings and on ex-

isting commitments and anticipated funding levels for the next 3 fiscal years; and

"(C) detailed ratings and evaluations on each project listed.

"(2) The Secretary shall submit a report to Congress on the first Monday in February, the first Monday in June, and the first Monday in October each year that includes—

"(A) a summary of the ratings of all applicant's capital investment projects;

"(B) detailed ratings and evaluations on each applicant project with significant changes to the finance or project proposal or has completed alternatives or preliminary engineering since the date of the last report; and

"(C) all relevant information that support the evaluation and rating of each updated project, including a summary of each updated project's financial plan.

"(m) PROJECT DEFINED.—In this section, the term 'major capital investment project' with respect to a new fixed guideway system or extension to an existing fixed guideway system, means a minimum operable segment of the project.".

SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) in subsection (a)—

(A) by striking ''or contracts'' and inserting '', contracts, cooperative agreements, or other transactions'';

(B) by striking ''help reduce urban transportation needs,'';

(C) by striking ''urban'' each place it appears; and

(D) by striking ''and demonstration projects related'' and inserting '', demonstration or deployment projects, or evaluation of technology of national significance'';

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b)(2), as redesignated, by striking ''other agreements'' and inserting ''other transactions'';

(5) in subsection (b)(3), as redesignated, by striking ''50'' and inserting ''80'';

(6) in subsection (b)(4), by adding the following sentence at the end: ''The evaluation criteria shall

include consideration of a share of consortium contributions to the overall research costs.''; (7) in subsection (c)(2), as redesignated, by striking ''and'' and inserting ''or'' before ''private''; and

(8) in subsections (b)(5) and (c)(3), as redesignated, by striking ''within the Mass Transit Account of the Highway Trust Fund''.

(b) CONFORMING AMENDMENTS.—

(1) Section 5312 is amended by striking the section heading and inserting the following:

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

(2) The item relating to section 5312 in the table of sections is amended to read as follows:

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

SEC. 3014. COOPERATIVE RESEARCH GRANT PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) in subsection (a) by—

(A) striking ''(1)'';

(B) striking ''paragraphs (1) and (2)(C)(ii) of section 5338(d) and inserting ''5338(a)(2)(F)(iii)(I) and (III)''; and

(C) striking ''(2)'' and inserting ''(b) Federal Assistance.—'';

(2) by striking subsection (b); and

(3) in subsection (c), by striking ''subsection (a) of''.

(b) CONFORMING AMENDMENTS.—

(1) Section 5313 is amended by striking the section heading and inserting the following:

''§ 5313. Cooperative research program''.

(2) The item relating to section 5313 in the table of sections is amended to read as follows:

''5313. Cooperative research program.''.

SEC. 3015. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in the section heading, by striking ''planning and'';

(2) in subsection (a)(1), by—

(A) striking ''subsections (d) and (h)(7) of section 5338'' and inserting ''section 5338(a)(2)(F)'';

(B) striking ''and contracts'' and inserting '', contracts, cooperative agreements, or other transactions''; and

(C) striking ''5317,'';

(3) in the first sentence of subsection (a)(3), by striking all that follows ''chapter'';

(4) by striking subsection (a)(4)(B);

(5) by redesignating subsection (a)(4)(C) as subsection (a)(4)(B); and

(6) in subsection (b), by striking ''or contract'' and all that follows in the first sentence, and inserting '', contract, cooperative agreement, or other transaction under subsection (a) of this section or section 5312.''

(b) CONFORMING AMENDMENTS.—The item relating to section 5314 in the table of sections is amended to read as follows:

''5314. National research programs.''.

SEC. 3016. NATIONAL TRANSIT INSTITUTE.

Section 5315 is amended—

(1) in subsection (a)—

(A) by striking ''public mass transportation'' and inserting ''public transportation'' each place it appears;

(B) by striking ''mass'' after ''Government-aid'' and inserting ''public''; and

(C) in paragraphs (1), (6), (7), and (10) by striking ''mass'' each place it appears before ''transportation'' and inserting ''public'';

(2) by striking subsection (b);

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(4) in subsection (c), as redesignated, by striking ''mass'' each place it appears.

SEC. 3017. BUS TESTING FACILITY.

Section 5318 is amended—

(1) by revising subsection (a) to read as follows:

''(a) FACILITY.—The Secretary of Transportation shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.'';

(2) in subsection (d), by striking ''section 5309(m)(1)(C)'' and inserting section 5338(a)(2)(I); and

(3) by revising subsection (e) to read as follows:

''(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).''.

SEC. 3018. BICYCLE FACILITIES.

Section 5319 is amended by striking ''5309(h),'' and inserting '' 5309(g),''.

SEC. 3019. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 3020. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) In paragraph (a)(1) by—

(A) striking ''private mass transportation company'' each place it appears and inserting ''private company engaged in public transportation'';

(B) striking ''mass transportation equipment or a mass transportation facility'' and inserting ''a public transportation facility or equipment''; and

(C) striking ''mass transportation company'' and inserting ''public transportation company'';

(2) in subsection (a)(1)(B), by striking ''private mass transportation companies'' and inserting ''private companies engaged in public transportation'';

(3) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''or loan''; and

(ii) by striking ''a certificate of the applicant'' and inserting ''in the environmental record for the project evidence''; and

(B) in subparagraph (A) of paragraph (1), by striking ''a public hearing with adequate prior notice'' and inserting ''public review and comment on the project''

(C) by amending subparagraph (B) of paragraph (1) to read as follows:

''(B) held a public hearing on the project if it affects significant economic, social, or environmental interests;'';

(4) in paragraph (2), by striking the last sentence;

(5) by revising subsection (c) to read as follows:

''(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods is subject to the requirements of section 5309 of this title to the extent the Secretary considers appropriate.'';

(6) in subsection (d)—

(A) by revising paragraph (2) to read as follows:

''(2) The Secretary may waive paragraph (1) of this subsection if the Secretary finds that the provision of intercity charter bus transportation service by the applicant, governmental authority, or publicly owned operator is necessary to meet the transportation needs of the elderly and individuals with disabilities.''; and

(B) by adding at the end the following paragraph:

"(3) On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary deems appropriate.";

(7) by striking subsection (e);

(8) by redesignating subsection (f) as (e);

(9) in subsection (e), as redesignated—

(A) by revising paragraph (2) to read as follows:

"(2) The Secretary may waive paragraph (1) of this subsection if the Secretary finds that the provision of schoolbus transportation by the applicant, governmental authority, or publicly owned operator is necessary to meet the transportation needs of students with disabilities."; and

(B) by adding at the end the following paragraph:

"(3) If the Secretary finds that an applicant, governmental authority, or publicly owned operator

has violated the agreement required under paragraph (1) of this subsection, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary deems appropriate.'';

(10) by revising subsection (f) to read as follows:

''(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

''(1) Notwithstanding any other provision of law, a recipient of assistance under sections 5307 or 5309 of this chapter, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

''(2) The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that recipient established pursuant to section 5302(a)(1a)(K) of this title from amounts made available to the recipient under sections 5307 or 5309 of this title.'';

(11) in subsection (g), by—

(A) striking ''(f)'' and inserting ''(e)'';

(B) striking ''103(e)(4) and'' in the first and second sentence and inserting ''133''; and

(C) striking (f)(1)(C) and inserting "(e)(1)(C)";

(12) by revising subsection (h) to read as follows:

"(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

"(1) If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which is desired to be transferred for public transportation purposes.

"(2) If within four months after such filing, the Secretary of such Department shall not have certified to the Secretary that the proposed appropriation of such land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or shall have agreed to the appropriation and transfer under conditions which the Secretary of such Department deems necessary

for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to a State, or local government, or public transportation operator for such purposes and subject to the conditions so specified.

''(3) If at any time such lands are no longer needed for public transportation purposes, notice shall be given by the State, or local government, or public transportation operator that received the land, to the Secretary, and such lands shall immediately revert to the control of the Secretary of the Department from which the land was originally transferred.'';

(13) in subsection (j)—

(A) by revising paragraph (1) to read as follows:

''(1)(A) The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, rolling stock, and components and subcomponents of the rolling stock used in the project are produced in the United States.

''(B) When procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

"(i) the cost of components and subcomponents produced in the United States shall be more than 60 percent of the cost of all components of the rolling stock; and

"(ii) final assembly of the rolling stock shall occur in the United States.

"(C) In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.";

(B) in paragraph (2)(B)—

(i) by striking "and goods" and inserting "rolling stock, and the components and subcomponents of rolling stock"; and

(ii) by adding "or" at the end;

(C) by striking paragraph (2)(C);

(D) by redesignating paragraph (2)(D) as paragraph (2)(C);

(E) by striking paragraph (3) and redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively;

(F) in paragraph (4), as redesignated, by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914" and inserting "Safe, Account-

able, Flexible, and Efficient Transportation Equity Act of 2003''; (14) by revising subsection (l) to read as follows:

''(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18, U.S.C., applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a Federal transit program.'';

(15) in subsection (m), by inserting at the end the following: ''Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) of this section do not apply to private nonprofit organizations or to grantees serving areas with fewer than one million people.'';

(16) in subsection (o) by striking ''the Transportation Infrastructure Finance and Innovation Act of 1998'' and inserting ''23 U.S.C. 188''.

SEC. 3021. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

§ 5324. Special provisions for capital projects

"(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired and furnished as a required contribution incident to a project, the Secretary may not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances as are required of a State agency under Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Uniform Act). The Secretary must be advised of specific references to any State law that are believed to be an exception to Sections 301 or 302 of the Uniform Act.

"(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

"(1) The Secretary may participate in the acquisition of real property prior to completion of the environmental reviews for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project, given any of the following conditions—

"(A) there are offers on the open real estate market to convey that property for a use or uses incompatible with the project under study;

"(B) there is an imminent threat of development or redevelopment of the property for use or uses incompatible with the project under study;

"(C) recent appraisals reflect a rapid increase in the fair market value of the property;

"(D) the property, because it is located near an existing transportation facility, is likely to be developed, but also likely to be needed for a future transportation improvement; or

"(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

"(2) Property acquired in accordance with this subsection may not be developed in anticipation of the project until the Secretary has complied with the National Environmental Policy Act and the applicable provisions of the Department of Transportation Act for protection of publicly owned park lands, wildlife and waterfowl refuges, and historic sites.

"(3) The Secretary shall limit the size and number of properties acquired in accordance with

this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

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

''(c) RAILROAD CORRIDOR PRESERVATION.—

''(1) The Secretary may assist an applicant in the acquisition of a pre-existing railroad right-of-way prior to completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law; furthermore, the Secretary may establish restrictions on such an acquisition as the Secretary deems necessary and appropriate.

''(2) Railroad right-of-way acquired in accordance with this subsection may not be developed in anticipation of the project until the Secretary has complied with the National Environmental Policy Act and the applicable provisions of the Department of Transportation Act for protection of publicly owned park lands, wildlife and waterfowl refuges, and historic sites.

"(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

"(1) In carrying out section 5301(e) of this chapter, the Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

"(2) In performing environmental reviews, the Secretary shall consider the public comments on a project submitted under section 5323(b) of this title and ensure that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that the project application includes a record of—

"(A) the environmental impact of the proposal;

"(B) adverse environmental effects that cannot be avoided;

"(C) alternatives to the proposal; and

"(D) irreversible and irretrievable impacts on the environment.

"(3)(A) The Secretary may approve an application for financial assistance for a capital project in accordance with this chapter only if the Secretary makes written findings, after reviewing the environmental record included with the project application, that—

"(i) an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest;

"(ii) the preservation and enhancement of the environment and the interest of the community in which the project is located were considered; and

"(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

"(B) The Secretary's findings under subparagraph (A) of this paragraph shall be made a matter of public record.".

(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

"5324. Special provisions for capital projects.".

SEC. 3022. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended—

(1) by revising subsection (a) to read as follows:

''(a) COMPETITION.—Recipients of Federal assistance under this chapter shall conduct all procurement transactions in a manner providing full and open competition as determined by the Secretary.'';

(2) by revising subsection (b) to read as follows:

''(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, U.S.C., or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services. When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting non-disputed audits conducted by other governmental agencies as follows:

"(1) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulation, part 31 of title 48, Code of Federal Regulations.

"(2) Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulations for one-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(3) Once a firm's indirect cost rates are accepted under this paragraph, the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

"(4) A recipient of funds requesting or using the cost and rate data described in paragraph (3) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part by the group of agencies sharing cost data under this para-

graph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.'';

(3) by inserting new subsections (d) through (h), after subsection (c), to read as follows:

''(d) DESIGN-BUILD SYSTEM PROJECTS.—

''(1) 'design-build system project' means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system or an operable segment thereof that meets specific performance criteria. Such project may also include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

''(2) Government financial assistance under this chapter may be made available for the capital costs of a design-build system project after the recipient complies with Government requirements.

''(e) MULTIYEAR ROLLING STOCK.—

''(1) A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract, including options, to

buy not more than 5 years of requirements for rolling stock and replacement parts.

"(2) The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

"(f) ACQUIRING ROLLING STOCK.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(1) based on—

"(A) initial capital costs; or

"(B) performance, standardization, life cycle costs, and other factors; or

"(2) with a party selected through a competitive procurement process.

"(g) EXAMINATION OF THE RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, papers, including contracts, related to a projects for which a grant is made under this chapter.

"(h) GRANT PROHIBITIONS.—-A grant may not be used to support a procurement that uses an exclusionary or discriminatory specification.".

(b) CONFORMING AMENDMENTS.—Chapter 53 of title 49, United States Code, is amended by—

(1) repealing section 5326; and

(2) striking ''5326. Special Procurements.'' in the table of sections for chapter 53.

SEC. 3023. HUMAN RESOURCE PROGRAMS.

(a) IN GENERAL.—Section 5322 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before the beginning of the first sentence of the section; and

(2) by adding the following at the end:

''(b) GRANTS TO HIGHER LEARNING INSTITUTIONS.—

''(1) The Secretary (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may make grants to nonprofit institutions of higher learning—

''(A) to conduct competent research and investigations into the theoretical or practical problems of urban transportation; and

''(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages an urban transportation system.

"(2) Research and investigations under this subsection include—

"(A) the design and use of urban public transportation systems and urban roads and highways;

"(B) the interrelationship between various modes of urban and interurban transportation;

"(C) the role of transportation planning in overall urban planning;

"(D) public preferences in transportation;

"(E) the economic allocation of transportation resources; and

"(F) the legal, financial, engineering, and esthetic aspects of urban transportation.

"(3) When making a grant under this subsection, the Secretary shall give preference to an institution that brings together knowledge and expertise in the various social science and technical disciplines related to urban transportation problems.

"(c) FELLOWSHIPS.—

"(1) The Secretary may make grants to States, local governmental authorities, and operators of public transportation systems to provide fellowships to train personnel employed in managerial, technical,

and professional positions in the mass transportation field.

"(2) A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the public transportation industry. The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient public transportation operation. A grant for a fellowship may not be more than the lesser of $65,000 or 75 percent of—

"(A) tuition and other charges to the fellowship recipient;

"(B) additional costs incurred by the training institution and billed to the grant recipient; and

"(C) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.

"(d) OTHER GRANTS.—The Secretary may make grants to State and local governmental authorities for projects that will use innovative techniques and methods in managing and providing public transportation.".

SEC. 3024. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) by striking ''and'' at the end of paragraph 11;

(2) in paragraph 12, by striking the ''.'' and inserting ''; and''; and

(3) by adding after paragraph (12) the following:

''(13) safety and security management.''.

(b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is amended—

(1) in paragraph (1)—

(A) by striking ''.5'' and inserting ''1'';

(B) by striking ''5307, 5309, or 5311 of this title, an interstate transfer mass transportation project under section 103(e)(4) of title 23 as in effect on September 30, 1991,'' and inserting ''5307–5311, 5316, or 5317 of this title,'';

(C) by striking ''to make a contract'';

(D) by striking ''a major project'' and inserting ''major projects''; and

(E) by striking ''section 5307, 5309, 5311, or 103(e)(4)'' and inserting ''sections 5307–5311, 5316, 5317,'';

(2) in paragraph (2), by inserting ''and security'' after ''safety''; and

(3) by redesignating paragraph (3) as (4) and inserting a new paragraph (3), as follows:

''(3) The Secretary shall deduct a sum in an amount that the Secretary determines necessary to administer this section from the amounts made available under paragraph (1) of this subsection. These funds shall be in addition to any other funds made available for these purposes, and shall remain available until expended.''.

SEC. 3025. PROJECT REVIEW.

Section 5328 is repealed.

SEC. 3026. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

''§ 5329. Investigation of safety and security risks

''The Secretary may conduct investigations into safety and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and

how to eliminate, mitigate, or correct it. If the Secretary establishes that a safety or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it. Any such plan relating to security risks shall be developed in consultation with the Secretary of Homeland Security. Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.''.

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

''5329. Investigation of safety and security risks.''.

SEC. 3027. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by striking the heading ''Withholding Amounts for Noncompliance with Safety Requirements'' and inserting ''State Safety Oversight'';

(2) in subsection (a), by striking the text and inserting the following ''This section applies only to—

''(1) States that have rail fixed guideway public transportation systems not subject to regulation by the Federal Railroad Administration; and

"(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.";

(3) in subsection (d) by inserting "shall ensure uniform safety standards and enforcement and" after "affected States"; and

(4) by striking subsection (f).

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

"5330. State safety oversight.".

SEC. 3028. SENSITIVE SECURITY INFORMATION.

Section 40119(b) is amended—

(1) in paragraph (1)(C) by striking "transportation safety" and inserting "the safety of transportation facilities or infrastructure, or transportation employees"; and

(2) by adding at the end a new paragraph (3), to read as follows:

"(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.".

SEC. 3029. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, U.S.C., is amended—

(1) by striking ''mass'' in each place it appears before ''transportation'' and inserting ''public'';

(2) in subsection (a)(5), by inserting ''controlling,'' after ''operating''; and

(3) in subsection (c)(5), by striking ''5302(a)(7)'' and inserting ''5302(a)''.

(b) CONFORMING AMENDMENT.—The item related to section 1993 in the table of contents for chapter 97 of title 18, U.S.C. is amended to read as follows:

''1993. Terrorist attacks and other acts of violence against public transportation systems.''.

SEC. 3030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

(a) DEFINITIONS.—Section 5331(a)(3) is amended by inserting after ''title'' the following: '', or sections 2303a, 7101(i), 7302(e) of title 46, United States Code. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an

agency within the Department of Transportation or other Federal agency.''.

(b) REGULATIONS.—Section 5331(f) is amended by striking paragraph (3).

SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b)(1) is amended by striking ''5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)'' each place it appears and inserting ''5316–5318, 5323(a)(1), (b), and (c), 5337, and 5338(b)(3)(C)''.

SEC. 3032. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a),

(A) by striking ''and'' at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting ''; and''; and

(C) by inserting after paragraph (10) the following:

''(11) issue regulations as necessary to carry out the purposes of this chapter.'';

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k);

(3) by adding a new subsection (b) after subsection (a), to read as follows:

"(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider; provided, however, that nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement."; and

(4) in subsection (j)(1), as redesignated,

(A) by striking "carry" and inserting "advise and assist the Secretary in carrying"; and

(B) by striking "and (b)(1)" and insert "5322(b)(1)".

SEC. 3033. REPORTS AND AUDITS.

Section 5335 is amended—

(1) in subsection (a), by—

(A) striking "(1)"; and

(B) striking "(2)" and inserting "(b) REPORTING AND UNIFORM SYSTEMS.—"; and

(2) by striking subsection (b).

SEC. 3034. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

(a) IN GENERAL.—Section 5336 is amended by—

(1) striking subsection (d);

(2) striking subsection (k);

(3) redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(4) adding a new subsection (a) as follows:

''(a) APPORTIONMENT OF ALLOCATIONS.—Of the amounts allocated under section 5338(a)(2)(P) of this title—

''(1) the following percentages shall be apportioned to each urbanized area in accordance with subsection (k) of this section:

''(A) One percent in fiscal year 2004.

''(B) Three percent in fiscal year 2005.

''(C) Five percent in fiscal year 2006.

''(D) Seven percent in fiscal year 2007.

''(E) Nine percent in fiscal year 2008.

''(F) Ten percent in every fiscal year thereafter.

''(2) the remaining portion shall be apportioned to each urbanized area in accordance with subsections (b) through (d) of this section.''.

(b) BASED ON URBANIZED AREA POPULATION.—Subsection (b), as redesignated, is amended—

(1) by striking ''Of the amount made available or appropriated under section 5338(a) of this title'' and inserting ''Of the amount to be apportioned under subsection (a)(2) of this section''; and

(2) in paragraph (2), by striking ''subsections (b) and (c)'' and inserting ''subsections (c) and (d)''.

(c) BASED ON FIXED GUIDEWAY REVENUE VEHICLE-MILES, ROUTE-MILES, AND PASSENGER-MILES.—Subsection (c)(2), as redesignated, is amended by striking ''subsection (a)(2)'' and inserting ''subsection (b)(2)''.

(d) BASED ON BUS REVENUE VEHICLE-MILES AND PASSENGER-MILES.—Subsection (d), as redesignated, is amended by striking ''subsection (a)(2)'' and inserting ''subsection (b)(2)''.

(e) DATE OF APPORTIONMENT.—Subsection (e)(1) is amended by striking ''subsections (a) and (h)(2) of section 5338'' and inserting ''section 5338(a)(2)(P)''.

(f) TRANSFERS OF APPORTIONMENTS.—Subsection (g) is amended by striking ''subsection (a)(1)'' and inserting ''subsection (b)(1)'' each time it appears.

(g) APPORTIONMENT BASED ON INCENTIVE FACTORS.—Section 5336 is amended by adding a new subsection (k) as follows:

''(k) APPORTIONMENT BASED ON INCENTIVE FACTORS.—

"(1) Of the amounts apportioned under subsection (a)(1) of this section, the Secretary may use the following amounts to make grants to establish data collection systems capable of collecting the data in paragraph (3) of this subsection:

"(A) $25,000,000 in fiscal year 2004.

"(B) $15,000,000 in fiscal year 2005.

"(C) $5,000,000 in fiscal year 2006.

"(2) Amounts under paragraph (1) of this subsection not obligated within three years following the end of the fiscal year in which those amounts became available shall be available for apportionment under paragraph (3) of this subsection.

"(3) The remaining amounts to be apportioned under subsection (a)(1) of this section shall be apportioned by a formula determined by the Secretary that distributes funds based on increases in public transportation patronage.

"(4) In apportioning funds under this subsection, the Secretary may consider the efficiency of service provision in the urbanized area.

"(5) The Secretary shall not apportion any amounts under this subsection to an urbanized area that experiences a significant decline, as determined by the Secretary, in public transportation patronage

by elderly individuals, individuals with disabilities, or low income persons.''.

SEC. 3035. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS.

(a) SECTION HEADING.—Section 5337 is amended by striking the section heading and inserting the following: **''§ 5337. Apportionment based on fixed guideway factors''.**

(b) DISTRIBUTION.—The text of subsection 5337(a) before the first colon is amended to read as follows: ''Amounts made available under section 5338(a)(2)(N) of this title are apportioned as follows:''.

(c) IN GENERAL.—Section 5337 is amended by—

(1) striking ''section 5336(b)(2)(A)'' each place it appears and inserting ''section 5336(c)(2)(A)'';

(2) striking subsection (e); and

(3) redesignating subsection (f) as subsection (e).

(d) CONFORMING AMENDMENT.—The item relating to section 5337 in the table of sections for chapter 53 is amended to read as follows:

''5337. Apportionment based on fixed guideway factors.''.

SEC. 3036. AUTHORIZATIONS.

The text of section 5338 is amended to read as follows:

''(a) FORMULA GRANTS AND RESEARCH.—

"(1) There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310–5318, 5322, 5335, 5505, and 5570–5575 of this title, and section 3038 of Public Law 105–178—

"(A) $5,615,406,000 for fiscal year 2004;

"(B) $5,727,714,000 for fiscal year 2005;

"(C) $5,846,851,000 for fiscal year 2006;

"(D) $5,978,405,000 for fiscal year 2007;

"(E) $6,126,071,000 for fiscal year 2008; and

"(F) $6,274,935,000 for fiscal year 2009.

"(2) Of the aggregate of amounts made available under this subsection for a fiscal year,

"(A) 1.25 percent shall be available to carry out section 5305 in the fiscal year 2004;

"(B) 2 percent shall be available to carry out section 5305 in fiscal years 2005 through 2009;

"(C) the following amounts shall be available to carry out section 5335—

"(i) $3,500,000 in fiscal year 2004;

"(ii) $3,700,000 in fiscal year 2005;

"(iii) $3,900,000 in fiscal year 2006;

"(iv) $4,100,000 in fiscal year 2007;

"(v) $4,300,000 in fiscal year 2008; and

"(vi) $4,500,000 in fiscal year 2009;

"(D) $4,849,950 shall be available for grants to the Alaska Railroad for improvements to its passenger operations in lieu of receiving an apportionment under section 5336 of this title;

"(E) $6,950,000 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century, as amended;

"(F) the following amounts shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, and national research programs under sections 5312, 5313, 5314, and 5322:

"(i) $43,750,000 in fiscal year 2004;

"(ii) 0.779 percent in fiscal years 2005 through 2009; and

"(iii) Of the amount made available by this paragraph:

"(I) 18.85 percent shall be available for carrying out transit coopera-

tive research programs under section 5313;

"(II) 9.14 percent shall be available to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 shall be available to carry out section 5315(a)(16); and

"(III) the remainder shall be available for carrying out national research programs under sections 5312, 5313, 5314, and 5322;

"(G) $30,000,000 shall be available to carry out section 5316 for each fiscal year 2005 through 2009, based on need and supported by transportation financial feasibility studies and planning analyses;

"(H) the following amounts shall be available for the New Freedom program under section 5317 of this title:

"(i) $145,000,000 in fiscal year 2004; and

"(ii) 2.582 percent in fiscal years 2005 through 2009;

"(I) the following amounts shall be available to carry out section 5318:

"(i) $3,000,000 in fiscal year 2004; and

"(ii) 0.061 percent in fiscal years 2005 through 2009;

"(J) $6,000,000 shall be available to carry out section 5505 of this title;

"(K) 6.4 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(L) 1.55 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

"(M) the following amounts shall be available to provide financial assistance for job access and reverse commute projects under section 5308:

"(i) $150,000,000 in fiscal year 2004; and

"(ii) 2.671 percent in fiscal years 2005 through 2009;

"(N) the following amounts shall be available to provide financial assistance for urban-

ized areas under section 5307 and apportioned in accordance with section 5337:

"(i) $1,214,400,000 in fiscal year 2004; and

"(ii) 21.626 percent in fiscal years 2005 through 2009; and

"(O) $75,000,000 shall be available to carry out sections 5570 through 5575 in fiscal years 2005 through 2009.

"(P) The remaining amount shall be available to provide financial assistance for urbanized areas under section 5307 and apportioned in accordance with section 5336.

"(b) MAJOR CAPITAL INVESTMENT PROGRAM GRANTS.—

"(1) There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305 and 5309—

"(A) $320,594,000 for fiscal year 2004;

"(B) $327,006,000 for fiscal year 2005;

"(C) $333,808,000 for fiscal year 2006;

"(D) $341,318,000 for fiscal year 2007;

"(E) $349,749,000 for fiscal year 2008; and

"(F) $358,248,000 for fiscal year 2009.

"(2) In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out sections 5305 and 5309—

"(A) $1,213,500,000 for fiscal year 2004;

"(B) $1,236,192,000 for fiscal year 2005;

"(C) $1,261,287,000 for fiscal year 2006;

"(D) $1,289,162,000 for fiscal year 2007;

"(E) $1,321,907,000 for fiscal year 2008; and

"(F) $1,355,219,000 for fiscal year 2009.

"(3) Of the amounts made available by and appropriated under this subsection for a fiscal year,

"(A) 1.25 percent shall be available to carry out section 5305 in the fiscal year 2004;

"(B) 2 percent shall be available to carry out section 5305 in fiscal years 2005 through 2009; and

"(C) the remaining amount shall be available to carry out Major Capital Investment Grants under section 5309 of this title.

"(c) ADMINISTRATION.—There are authorized to be appropriated to carry out section 5334—

"(A) $76,500,000 for fiscal year 2004;

"(B) $77,931,000 for fiscal year 2005;

"(C) $79,513,000 for fiscal year 2006;

"(D) $81,270,000 for fiscal year 2007;

"(E) $83,334,000 for fiscal year 2008; and

"(F) $85,434,000 for fiscal year 2009.

"(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—

"(1) A grant or contract approved by the Secretary, that is financed with amounts made available under subsections (a), (b)(1), or (e) is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

"(2) A grant or contract, approved by the Secretary, that is financed with amounts made available under subsections (b)(2) or (c) is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent that amounts are provided in advance in an appropriations Act.

"(e) REVENUE ALIGNED BUDGET AUTHORITY.—

"(1) On October 15 of fiscal year 2006 and each fiscal year thereafter, the Secretary shall prorate an amount of funds equal to the amount determined pursuant to section 251(b)(1)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 in a portion equal to the amount available to each Federal transit program for which funds are available from the Mass Transit Account of the

Highway Trust Fund under subsections (a) and (b) of this section.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Mass Transit Account of the Highway Trust Fund such sums as may be necessary to carry out this subsection for fiscal years beginning after September 30, 2005.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (a), (b), and (e) shall remain available until expended.".

SEC. 3037. NATIONAL PARKS AND PUBLIC LANDS LEGACY PROJECT.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

"§ 5316. National parks and public lands Legacy Project

"(a) IN GENERAL.—

"(1) The Secretary of Transportation, in consultation with the Secretary of the Interior, may make a grant or enter into a contract, cooperative agreement, interagency agreement, intra-agency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands

and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including the disabled, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

"(2) A grant, cooperative agreement, interagency agreement, intra-agency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

"(b) DEFINITIONS.—In this section—

"(1) 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

"(A) a unit of the National Park System;

"(B) a unit of the National Wildlife Refuge System;

"(C) a recreational area managed by the Bureau of Land Management; and

"(D) a recreation area managed by the Bureau of Reclamation.

"(2) 'Federal land management agency' means a Federal agency that manages an eligible area.

"(3) 'public transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

"(4) 'qualified participant' means—

"(A) a Federal land management agency; or

"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

"(5) 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

"(A) is an activity described in section 5302, 5303, or 5304;

"(B) involves—

"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

"(ii) the deployment of public transportation vehicles that introduce innovative technologies or methods;

"(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

"(F) is any other public transportation project that—

"(i) enhances the environment;

"(ii) prevents or mitigates an adverse impact on a natural resource;

"(iii) improves Federal land management agency resource management;

"(iv) improves visitor mobility and accessibility and the visitor experience;

"(v) reduces congestion and pollution (including noise pollution and visual pollution); or

"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

"(6) 'Secretary' means the Secretary of Transportation.

"(c) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

"(1) The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(G) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

"(2) Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, re-

search, and technical assistance under this title or any other provision of law.

"(3) No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(G) for any fiscal year.

"(d) PLANNING PROCESS.—In undertaking a qualified project under this section,

"(1) if the qualified participant is a Federal land management agency—

"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

"(i) the metropolitan planning provisions under section 5303 of this title;

"(ii) the statewide planning provisions under section 5304 of this title; and

"(iii) the public participation requirements under section 5307(e); and

"(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

"(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

"(A) comply with the metropolitan planning provisions under section 5303 of this title;

"(B) comply with the statewide planning provisions under section 5304 of this title;

"(C) comply with the public participation requirements under section 5307(e) of this title; and

"(D) consult with the appropriate Federal land management agency during the planning process.

"(e) COST SHARING.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the share of assistance to be provided under this section to a qualified participant.

"(2) In establishing the share of assistance to be provided under this section, the Secretary shall consider—

"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

"(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

"(D) the clear and direct benefit to the qualified participant; and

"(E) any other matters that the Secretary considers appropriate to carry out this section.

"(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the remainder of the cost of a qualified project.

"(f) SELECTION OF QUALIFIED PROJECTS.—

"(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

"(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

"(B) the location of the qualified project, to ensure that the selected qualified projects—

"(i) are geographically diverse nationwide; and

"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

"(C) the size of the qualified project, to ensure that there is a balanced distribution;

"(D) the historical and cultural significance of a qualified project;

"(E) safety;

"(F) the extent to which the qualified project would-

"(i) enhance livable communities;

"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

"(iii) reduce congestion; and

"(iv) improve the mobility of people in the most efficient manner; and

"(G) any other matters that the Secretary considers appropriate to carry out this section, including-

"(i) visitation levels;

"(ii) the use of innovative financing or joint development strategies; and

"(iii) coordination with gateway communities.

"(g) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

"(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

"(A) the qualified participant applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out that part of the qualified project, the Secretary approves the

plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

''(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

''(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

''(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

''(h) RELATIONSHIP TO OTHER LAWS.—

''(1) A qualified participant under this section is subject to the requirements of section 5307 of this title to the extent the Secretary considers appropriate.

''(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a

Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

"(3) The Secretary may waive the applicability of the Special Warranty under paragraph (B) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate

"(4) A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

"(5) If the amount of assistance anticipated to be required for a qualified project under this section is $75,000,000 or more, the qualified participant shall prepare a project management plan in accordance with sections 5327(a) and (b) of this title.

"(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) The Secretary may request and receive appropriate information from any source.

"(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).".

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

"5316. National parks and public lands Legacy Project.".

SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILTY PROGRAM.

(a) Section 3038 of the Transportation Equity Act for the 21st Century, Public Law 105–178, is amended—

(1) by striking the section heading and inserting the following: ''OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.'';

and

(2) by revising subsection (g) to read as follows:

''(g) FUNDING.—

''(1) Of the amounts made available by or appropriated under section 5338(a)(2)(E) in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

''(2) Of the amounts made available by or appropriated under section 5338(a)(2)(E) in each fiscal year, 25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.''.

(b) CONFORMING AMENDMENTS.—The item relating to section 3038 in the table of sections for the Transportation Equity Act for the 21st Century is amended to read as follows:

"Over-the-road bus accessibility program.".

SEC. 3039. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

"(a) GENERAL AUTHORITY.—

"(1) The Secretary may make grants to a State under this section for capital public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities. A State may then allocate the funds to—

"(A) a private non-profit organization; or

"(B) a governmental authority—

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

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

"(2) A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

"(3) A State may use not more than 15 percent of the amounts apportioned under this section to administer, plan and provided technical assistance for a project funded under this section.

"(b) APPORTIONMENTS.—

"(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(M) of this title under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

"(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any funds transferred pursuant to this subsection shall be made available only for eligible projects selected under this section.

"(c) GOVERNMENT'S SHARE.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. The remainder—

"(1) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or

local social service agency or a private social service organization, or new capital; and

''(2) may be derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

''(3) For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.

''(d) GRANT REQUIREMENTS.—

''(1) A recipient of a grant under this section is subject to all requirements of a grant under section 5307 of this title to the extent the Secretary considers appropriate.''.

''(2) A recipient that transfers funds to section 5336 pursuant to subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

''(3) A recipient of funds under this section shall certify that—

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

"(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

"(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

"(e) STATE PROGRAM OF PROJECTS.—Amounts made available to carry out this subsection may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects. A program shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other United States Government sources.

"(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authori-

ties to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.

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

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

''(i) FARES NOT REQUIRED.—This chapter does not require that elderly individuals and individuals with disabilities be charged a fare.''.

SEC. 3040. JOB ACCESS AND REVERSE COMMUTE.

(a) Section 5308 is amended to read as follows:

''§ 5308. Formula grants for job access and reverse commute projects

''(a) DEFINITIONS.—In this section,

"(1) 'recipient' means a State that receives a grant under this section directly; and

"(2) 'subrecipient' means a State or local public authority, a nonprofit organization, or a private operator of public transportation service that may receive a grant under this section indirectly through a recipient, rather than directly from the Federal Government.".

"(b) GENERAL AUTHORITY.—

"(1) The Secretary may make grants to a recipient under this section for access to jobs and reverse commute projects to a recipient.

"(2) A recipient may use not more than 15 percent of the amounts apportioned under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(c) APPORTIONMENTS.—

"(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(M) of this title under a formula the Secretary administers that considers the number of low income people in each State.

"(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any apportionment transferred

pursuant to this subsection shall be made available for eligible job access and reverse commute projects under this section.

"(d) GRANT REQUIREMENTS.—

"(1) A grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

"(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

"(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

"(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

"(e) COMPETITIVE PROCESS.—

"(1) The recipient shall conduct a statewide solicitation for applications for grants under this section.

"(2) Subrecipients seeking to receive a grant under this section shall submit to the recipient an

application in the form and in accordance with such requirements as the recipient shall establish.

"(3) Subrecipients submitting applications pursuant to paragraph (2) shall be selected on a competitive basis.

"(f) COORDINATION.—

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

"(2) A recipient that transfers funds to section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

"(3) A recipient of funds under this section shall certify that—

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

"(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

"(g) GOVERNMENT'S SHARE OF COSTS.—

"(1) A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary. A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The remainder—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

"(B) may be derived from amounts appropriated to or made available to a department or agency of the Federal Government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

"(2) A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

"(3) For purposes of paragraph (1)(B) of this section, the prohibitions on the use of funds for

matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to Federal or State funds to be used for transportation purposes.''

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended after the item relating to section 5307 to read as follows:

''5308. Formula grants for job access and reverse commute projects.''.

TITLE IV—MOTOR CARRIER SAFETY

SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

(a) ADMINISTRATIVE EXPENSES.—Section 31104 of title 49, United States Code, is amended by adding the following at the end:

''(i) ADMINISTRATIVE EXPENSES.—

''(1) There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

''(A) $224,406,000 for fiscal year 2004;

''(B) $228,000,000 for fiscal year 2005;

''(C) $233,000,000 for fiscal year 2006;

''(D) $239,000,000 for fiscal year 2007;

''(E) $244,000,000 for fiscal year 2008; and

"(F) $250,000,000 for fiscal year 2009.

"(2) The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board and rules for medical examiners), performance and registration information system management (PRISM), a study of driver availability and retention, and outreach and education; other operating expenses and similar matters; and such other expenses as may from time to time become necessary to implement statutory mandates not funded from other sources.

"(3) The amounts made available under this section shall remain available until expended.

"(4) Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out subtitle IV, part B, and subtitle VI, part B, of this title, or the provisions of subtitle IV of the 'Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003', shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.".

(b) AMENDMENT TO TITLE 23.—Section 104(a)(1) of title 23, United States Code, is amended by—

(1) deleting subparagraph (B);

(2) deleting the designation ''(A)'' at the beginning of subparagraph (A) and redesignating subparagraphs (A)(i) and (ii) as subparagraphs (A) and (B), respectively; and

(3) deleting ''; and'' at the end of subparagraph (B), as so redesignated, and inserting a period.

(c) GRANT PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the following Federal Motor Carrier Safety Administration programs—

(1) Commercial driver's license/driver improvement program grants under section 4002(c)—

(A) $22,000,000 for fiscal year 2004;

(B) $22,000,000 for fiscal year 2005;

(C) $23,000,000 for fiscal year 2006;

(D) $23,000,000 for fiscal year 2007;

(E) $24,000,000 for fiscal year 2008; and

(F) $25,000,000 for fiscal year 2009.

(2) Border enforcement grants under section 4002(b)—

(A) $ 32,000,000 for fiscal year 2004;

(B) $ 33,000,000 for fiscal year 2005;

(C) $ 33,000,000 for fiscal year 2006;

(D) $ 34,000,000 for fiscal year 2007;

(E) $ 35,000,000 for fiscal year 2008; and

(F) $ 36,000,000 for fiscal year 2009.

(3) Performance and registration information system management (PRISM) grant program under section 4016—

(A) $4,000,000 for fiscal year 2004;

(B) $4,000,000 for fiscal year 2005;

(C) $4,000,000 for fiscal year 2006;

(D) $4,000,000 for fiscal year 2007;

(E) $4,000,000 for fiscal year 2008; and

(F) $4,000,000 for fiscal year 2009.

(d) PERIOD OF AVAILABILITY.—The amounts made available under subsection (c) of this section shall remain available until expended.

(e) CONTRACT AUTHORITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out subsection (c) of this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first. Approval by the Secretary of a grant with funds made available under subsection (c) of this section imposes upon the United States Government a contractual obligation for

payment of the Government's share of costs incurred in carrying out the objectives of the grant.

SEC. 4002. MOTOR CARRIER SAFETY GRANTS.

(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—

(1) Section 31102 of title 49, United States Code, is amended—

(A) in subsection (b)(1), by amending paragraph (A) to read as follows:

''(A) implements performance-based activities.'';

(B) in subsection (b)(1), by deleting ''and'' at the end of paragraph (S), replacing the period at the end of paragraph (T) with a semicolon, and adding new paragraphs (U) and (V), to read as follows:

''(U) provides that the State will include in the training manual for the licensing examination to drive a non-commercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of non-commercial vehicles, respectively; and

''(V) provides that the State will enforce the registration requirements of 49 U.S.C.

13902 by placing out of service any vehicle discovered to be operating without registration or beyond the scope of its registration.''; and

(C) by revising subsection (c) to read as follows:

''(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a) of this section for the following activities:

''(1) If the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

''(A) Enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States.

''(B) Detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802))

in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

''(2) Documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations against non-commercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.''.

(2) Section 31103(b) of title 49, United States Code, is amended to read as follows:

''(b) OTHER ACTIVITIES.—

''(1) From the amounts designated under section 31104(f)(2), the Secretary may make a grant to a State agency, local government, or other person for the full cost of research, development, demonstration projects, public education, and other special activities and projects relating to commercial motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

''(2) From the amounts designated under section 31104(f)(3), the Secretary may allocate safety

performance incentive funds to States without requiring a matching contribution from such States.

"(3) From the amounts designated under section 31104(f)(4), the Secretary may allocate new entrant motor carrier audit funds to States and local governments without requiring a matching contribution from such States or local governments. However, the Secretary may withhold such funds from a State or local government that is unable to use government employees to conduct new entrant motor carrier audits, and may instead utilize the funds directly to conduct audits in those jurisdictions.".

(3) Section 31104(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102:

"(1) Not more than $164,594,000 for fiscal year 2004.

"(2) Not more than $168,000,000 for fiscal year 2005.

"(3) Not more than $172,000,000 for fiscal year 2006.

"(4) Not more than $176,000,000 for fiscal year 2007.

"(5) Not more than $180,000,000 for fiscal year 2008.

"(6) Not more than $184,000,000 for fiscal year 2009.".

(4) Section 31104(f) is amended by revising paragraph (2) and adding new paragraphs (3) and (4), to read as follows:

"(2) HIGH-PRIORITY ACTIVITIES.—The Secretary may designate up to 10 percent of amounts available for allocation under paragraph (1) for States, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies. The amounts designated under this paragraph shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. Allocations under this paragraph do not require a matching contribution from a State, local government, or other person.

"(3) SAFETY PERFORMANCE INCENTIVE PROGRAMS.—The Secretary may designate up to 10 percent of the amounts available for allocation under paragraph (1) for safety performance incentive programs for States. The Secretary shall establish safety performance criteria to be used to distribute incentive program funds. Such criteria shall include, at a minimum, reduction in the number and rate of fatal accidents involving commercial motor vehicles. Allocations under this paragraph do not require a matching contribution from a State.

"(4) NEW ENTRANT AUDITS.—The Secretary may designate up to $17,000,000 of the amounts available for allocation under paragraph (1) for audits of new entrant motor carriers conducted pursuant to section 210 of the Motor Carrier Safety Improvement Act of 1999, 113 Stat. 1764. Allocations under this paragraph do not require a matching contribution from a State or local government.".

(b) GRANTS TO STATES FOR BORDER ENFORCEMENT.—Chapter 311 of title 49, United States Code, is amended by revising section 31107 to read as follows:

"§ 31107. Border enforcement grants

"(a) GENERAL AUTHORITY.—From the funds authorized by sections 4001(c)(2) of the Safe, Accountable,

Flexible, and Efficient Transportation Equity Act of 2003, the Secretary may make a grant in a fiscal year to a State, except as otherwise provided in subsection (c), that shares a border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

"(b) MAINTENANCE OF EXPENDITURES.—Except as otherwise provided in subsection (c), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last two State or Federal fiscal years before October 1, 2003.

"(c) GOVERNMENT SHARE.—The Secretary may make a grant to a State agency, local government, or other person for the full cost of research, development, demonstration projects, public education, and other special activities and projects relating to cross-border operations of commercial motor vehicles that are beneficial to all juris-

dictions or designed to address national safety concerns and circumstances.

"(d) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

"(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant with funds made available under section 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 imposes upon the United States Government contractual obligation for payment of the amount of the grant.".

(c) GRANTS TO STATES FOR COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.—Chapter 313 of title 49, United States Code, is amended by adding new section 31318 at the end, to read as follows:

"§ 31318. Grants for commercial driver's license program improvements

"(a) GENERAL AUTHORITY.—From the funds authorized by section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary may make a grant to a State, except as otherwise provided in subsection (e), in a fiscal year to improve its implementation of the commercial driver's

license program, providing the State is in substantial compliance with the requirements of section 31311 and this section. The Secretary shall establish criteria for the distribution of grants and notify the States annually of such criteria.

"(b) CONDITIONS.—Except as otherwise provided in subsection (e), a State may use a grant under this section only for expenses directly related to its commercial driver's license program, including, but not limited to, computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings. The Secretary may allocate the funds appropriated for such grants in a fiscal year among the eligible States whose applications for grants have been approved, under criteria that best serve the purposes of this section.

"(c) MAINTENANCE OF EXPENDITURES.—Except as otherwise provided in subsection (e), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for the operation of the commercial driver's license program will be maintained at a level at least equal to the average level of that expend-

1 iture by the State and political subdivisions of the State
2 for the last 2 fiscal years before October 1, 2003
3 "(d) GOVERNMENT SHARE.—Except as otherwise
4 provided in subsection (e), the Secretary shall reimburse
5 a State, from a grant made under this section, an amount
6 that is not more than 80 percent of the costs incurred
7 by the State in a fiscal year in implementing the commer-
8 cial driver's license improvements described in subsection
9 (b). In determining those costs, the Secretary shall include
10 in-kind contributions by the State. Amounts of the State
11 required to be expended under subsection (c) may not be
12 included as part of the share not provided by the United
13 States Government.
14 "(e) HIGH-PRIORITY ACTIVITIES.—
15 "(1) The Secretary may make a grant to a
16 State agency, local government, or other person for
17 the full cost of research, development, demonstration
18 projects, public education, or other special activities
19 and projects relating to commercial driver licensing
20 and motor vehicle safety that are of benefit to all ju-
21 risdictions or designed to address national safety
22 concerns and circumstances.
23 "(2) The Secretary may designate up to 10 per-
24 cent of the amounts made available under section
25 4001(c)(1) of the Safe, Accountable, Flexible, and

Efficient Transportation Equity Act of 2003 in a fiscal year for high-priority activities under subsection (e)(1).

"(f) EMERGING ISSUES.—The Secretary may designate up to 25 percent of the amounts made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 in a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.

"(g) GOVERNMENT SHARE.—Except as otherwise provided in subsections (e) and (f), all amounts available in a fiscal year to carry out this section shall be apportioned to States according to a formula prescribed by the Secretary.

"(h) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for that fiscal year, up to 1.25 percent of those amounts for administrative expenses incurred in carrying out this section in that fiscal year.

"(i) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

"(j) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant with funds made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 imposes upon the United States Government a contractual obligation for payment of the amount of the grant.".

(d) NONCOMPLIANCE WITH CDL REQUIREMENTS.—Subsections (a) and (b) of section 31314 of title 49, United States Code, are amended to read as follows:

"(a) FIRST FISCAL YEAR.—The Secretary of Transportation shall withhold up to 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

"(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and

(4) of title 23 on the first day of each fiscal year after the 2d fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.''.

(e) CONFORMING AMENDMENTS—

(1) The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended by—

(A) revising the heading of Subchapter I to read as follows:

''SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS'';

and

(B) revising the item relating to section 31107 to read as follows:

''31107. Border enforcement grants.''.

(2) Chapter 311 of title 49, United States Code, is amended following the table of sections by striking—

''SUBCHAPTER I—STATE GRANTS''

and substituting—

''SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS''.

(3) The table of sections at the beginning of chapter 313 of title 49, United States Code, is

amended after the item relating to section 31317 by adding the following:

"31318. Grants for commercial driver's license program improvements.".

SEC. 4003. HOBBS ACT.

(a) Section 2342(3)(A) of title 28, United States Code, is amended to read as follows:

"(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a) or pursuant to part B or C of subtitle IV of title 49 [49 U.S.C. chapters 131–161] or pursuant to subchapter III of chapter 311, chapter 313, and chapter 315 of part B of subtitle VI of title 49; and".

(b) Section 351(a) of title 49, United States Code, is amended to read as follows:

"(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department,

agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.''.

(c) Section 352 of title 49, United States Code, is amended to read as follows:

''§ 352. Authority to carry out certain transferred duties and powers

''In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.''.

SEC. 4004. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

Section 521(b)(2) of title 49, United States Code, is amended by adding new subparagraph (E) at the end, to read as follows:

''(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A

person subject to chapter 51 of subtitle III, Part B of Subtitle IV, or Part B of Subtitle VI of this title who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense, and each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $5,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing herein amends or supersedes any remedy available to the Secretary under sections 502(d), 507(c), or other provision of this title.''.

SEC. 4005. MEDICAL REVIEW BOARD AND MEDICAL EXAMINERS.

(a) MEDICAL REVIEW BOARD.—

(1) ESTABLISHMENT AND FUNCTION.—The Federal Motor Carrier Safety Administrator shall establish a Medical Review Board as an advisory committee to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

(2) COMPOSITION.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of specialties relevant to the functions of the Federal Motor Carrier Safety Administration.

(3) TERMINATION DATE.—The Medical Review Board shall remain in effect until September 30, 2009.

(b) MEDICAL EXAMINERS.—Section 31136(a)(3) of title 49, United States Code, is amended to read as follows:

''(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to

operate the vehicles safely, and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation;''.

SEC. 4006. ENFORCEMENT OF HOUSEHOLD GOODS REGULATIONS.

(a) DISPUTE SETTLEMENT PROGRAM FOR HOUSEHOLD GOODS CARRIERS.—

(1) Section 14708(a) of title 49, United States Code, is amended to read as follows:

''(a) SHIPPER ARBITRATION.—

''(1) As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer in accordance with this section to shippers of household goods arbitration as a means of settling disputes between such carriers and shippers. However, the carrier may not require the shipper to agree to use arbitration prior to the time that a dispute arises.

''(2) If the dispute involves a claim for $5,000 or less and the shipper requests arbitration, such ar-

bitration shall be binding on the parties. If the dispute involves a claim for more than $5,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.''.

(2) Subsection (b)(6) of section 14708 is deleted, and subsections (b)(7) and (b)(8) are redesignated as subsections (b)(6) and (b)(7), respectively.

(b)(1) Chapter 147 of title 49, United States Code, is amended by adding new section 14710 at the end, to read as follows:

''§ 14710. Enforcement by State attorneys general

''(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce this part, or a regulation or order of the Secretary or Board, as applicable, or to impose the civil penalties authorized by this part or such regulation or order, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by (1) a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or (2) a foreign motor carrier providing transportation registered under section 13902 of this title, that is engaged

in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable.

"(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) or (e)(2) upon the Secretary or Board, as applicable, and provide the Secretary or Board with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary or Board shall have the right—

"(1) to intervene in such action;

"(2) upon so intervening, to be heard on all matters arising therein; and

"(3) to file petitions for appeal.

"(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(d) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a) of this section—

"(1) trial is in the judicial district in which—

"(A) the carrier, foreign motor carrier, or broker operates;

"(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation or service under this part when the violation occurred; or

"(C) the offender is found;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

"(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

"(e) ACTIONS BY OTHER STATE OFFICIALS.—

"(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any criminal statute of such State.

"(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 147 of title 49, United States Code, is amended by inserting after the item relating to section 14709 the following:

"14710. Enforcement by State attorneys general.".

SEC. 4007. REGISTRATION OF COMMERCIAL MOTOR CARRIERS, FREIGHT FORWARDERS, AND BROKERS.

(a) Sections 13102(6), (7), (12) and (13) of title 49, United States Code, are amended to read as follows:

"(6) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

"(A)(i) that is domiciled in a contiguous foreign country; or

"(ii) that is owned or controlled by persons of a contiguous foreign country; and

"(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by commercial motor vehicle, as defined in section 31132(1) of this title, under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor

carrier of property described in subparagraph (A)).

"(7) FOREIGN MOTOR PRIVATE CARRIER.—The term 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

"(A)(i) that is domiciled in a contiguous foreign country; or

"(ii) that is owned or controlled by persons of a contiguous foreign country; and

"(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by commercial motor vehicle, as defined in section 31132(1) of this title, under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A))."

"(12) MOTOR CARRIER.—The term 'motor carrier' means a person providing transportation for compensation by commercial motor vehicle, as defined in section 31132(1) of this title.

"(13) MOTOR PRIVATE CARRIER.—The term 'motor private carrier' means a person, other than a motor carrier, transporting property by commercial

motor vehicle, as defined in section 31132(1) of this title, when—

"(A) the transportation is as provided in section 13501 of this title;

"(B) the person is the owner, lessee, or bailee of the property being transported; and

"(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.".

(b) Section 13903(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—

"(1) The Secretary of Transportation shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder of household goods if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.

"(2) The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to

comply with this part and applicable regulations of the Secretary and Board.''.

(c) Section 13904(a) of title 49, United States Code, is amended to read as follows:

''(a) IN GENERAL.—

''(1) The Secretary of Transportation shall register, subject to section 13906(b), a person to be a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation of household goods and to comply with this part and applicable regulations of the Secretary.

''(2) The Secretary may register, subject to section 13906(b), a person to be a broker for transportation of other property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.''.

SEC. 4008. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.

(a)(1) Section 31138(a) of title 49, United States Code, is amended to read as follows:

''(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers by motor vehicle in the United States between a place in a State and—

''(1) a place in another State;

''(2) another place in the same State through a place outside of that State; or

''(3) a place outside the United States.''.

(2) Section 31138(c) of title 49, United States Code, is amended by adding paragraph (4) at the end, to read as follows:

''(4) The Secretary may require a person, other than a motor carrier as defined in section 13102(12) of this title, transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) of this section in an amount not less than that required by this section, and the laws of the State or States in which the person is operating, to the extent appli-

cable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.''.

(b)(1) Section 31139(b)(1) of title 49, United States Code, is amended to read as follows:

''(b) GENERAL REQUIREMENTS AND MINIMUM AMOUNT.—

''(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor vehicle in the United States between a place in a State and—

''(A) a place in another State;

''(B) another place in the same State through a place outside of that State; or

''(C) a place outside the United States.''.

(2) Subsections (c) through (g) of section 31139 of title 49, United States Code, are redesignated as sub-

sections (d) through (h), and new subsection (c) is inserted after subsection (b), to read as follows:

"(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier, as defined in section 13102 of this title, to file with the Secretary the evidence of financial responsibility specified in subsection (b) of this section in an amount not less than that required by this section, and the laws of the State or States in which the motor private carrier is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.".

SEC. 4009. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) Section 521(b)(2)(B) of title 49, United States Code, is amended to read as follows:

"(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III

of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

"(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $10,000; or

"(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount

not to exceed $10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.''.

(b) Section 31310(i)(2) of title 49, United States Code, is amended to read as follows:

''(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

''(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least $2,500;

''(B) an operator of a commercial motor vehicle found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least $5,000;

''(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be

liable for a civil penalty of not more than $25,000; and

"(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed one year or a fine under title 18, United States Code, or both.".

SEC. 4010. ELIMINATION OF COMMODITY AND SERVICE EXEMPTIONS.

(a) Section 13506(a) of title 49, United States Code, is amended—

(1) by deleting paragraphs (2), (6), (11), (12), (13), and (15); and

(2) by redesignating paragraphs (3), (4), (5), (7), (8), (9), (10), and (14) as paragraphs (2), (3), (4), (5), (6), (7), (8), and (9), respectively.

(b) The first sentence of section 13507 of title 49, United States Code, is amended to read as follows: "A motor carrier of property providing transportation exempt from jurisdiction under paragraph (6) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as property which the carrier

is authorized to transport under a registration issued under section 13902(a).''.

SEC. 4011. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

(a) Subsection (a) of section 31144 of title 49, United States Code, is amended to read as follows:

''(a) IN GENERAL.—The Secretary shall—

''(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce;

''(2) periodically update such safety fitness determinations;

''(3) make such final safety fitness determinations readily available to the public; and

''(4) prescribe by regulation penalties for violations of this section consistent with section 521.''.

(b) Subsection (c) of section 31144 of title 49, United States Code, is amended by adding new paragraph (5) at the end, to read as follows:

''(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor

vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.''.

(c) Subsections (d) and (e) of section 31144 of title 49, United States Code, are redesignated as subsections (e) and (f), respectively, and new subsection (d) is added after subsection (c), to read as follows:

''(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives Motor Carrier Safety Assistance Program funds pursuant to section 31102 of this title determines, by applying the standards prescribed by the Secretary under subsection (b) of this section, that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.''.

SEC. 4012. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.

(a) Chapter 2 of title 18, United States Code, is amended by adding at the end new section 38, to read as follows:

"§ 38. Commercial motor vehicles required to stop for inspections

''(a) A driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by a uniformed special agent of the Federal Motor Carrier Safety Administration, Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an agent.

''(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by a uniformed special agent of the Federal Motor Carrier Safety Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than one year, or both.''.

(b) Chapter 203 of title 18, United States Code, is amended by adding at the end new section 3064, to read as follows:

"§ 3064. Powers of Federal Motor Carrier Safety Administration

''Uniformed special agents of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 37 the following:

''38. Commercial motor vehicles required to stop for inspections.''.

(2) The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3063 the following:

''3064. Powers of the Federal Motor Carrier Safety Administration.''.

SEC. 4013. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

(a) Section 31135 of title 49, United States Code, is amended by designating the existing text as subsection ''(a) IN GENERAL.—'' and adding new subsections (b), (c), (d), and (e), to read as follows:

''(b) PATTERN OF NONCOMPLIANCE.—If an officer of a motor carrier engages in a pattern or practice of avoid-

ing compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905 of this title.

"(c) LIST OF PROPOSED OFFICERS.—Each person seeking registration as a motor carrier under section 13902 of this title shall submit a list of the proposed officers of the motor carrier. If the Secretary determines that any of the proposed officers has previously engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this chapter, the Secretary may deny the person's application for registration as a motor carrier under section 13902(a)(3).

"(d) REGULATIONS.—The Secretary shall by regulation establish standards to implement subsections (b) and (c).

"(e) DEFINITIONS.—In this section —

"(1) 'motor carrier' has the same meaning as in section 13102(12) of this title; and

"(2) 'officer' means an owner, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor and

driver supervisor of a motor carrier, regardless of the title attached to those functions.''.

(b) Section 13902(a)(1)(B) of title 49, United States Code, is amended to read as follows:

''(B) any safety regulations imposed by the Secretary; the duties of employers and employees established by the Secretary under section 31135; and the safety fitness requirements established by the Secretary under section 31144; and''.

SEC. 4014. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Title 49, United States Code, is amended by repealing section 31108 and inserting the following new section, to read as follows:

''§ 31108. Motor carrier research and technology program

''(a) RESEARCH, TECHNOLOGY AND TECHNOLOGY TRANSFER ACTIVITIES.—

''(1) The Secretary of Transportation shall establish and carry out a motor carrier research and technology program. The Secretary may carry out research, development, technology, and technology transfer activities with respect to—

"(A) the causes of accidents, injuries and fatalities involving commercial motor vehicles; and

"(B) means of reducing the number and severity of accidents, injuries and fatalities involving commercial motor vehicles.

"(2) The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

"(3) The Secretary may use the funds appropriated to carry out this section for training or education of commercial motor vehicle safety personnel, including, but not limited to, training in accident reconstruction and detection of controlled substances or other contraband, and stolen cargo or vehicles.

"(4) The Secretary may carry out this section—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State

agency, authority, association, institution, for-profit or non-profit corporation, organization, foreign country, or person.

"(5) The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

"(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

(1) To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

"(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

"(B) Federal laboratories.

"(2) In carrying out this subsection, the Secretary may enter into cooperative research and de-

velopment agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(3)(A) The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(B) All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

"(4) The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(5) Section 3705 of title 41, United States Code, shall not apply to a contract or agreement entered into under this section.

"(c) AVAILABILITY OF AMOUNTS.—The amounts made available under section 4001(b) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

"(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under section 4001(b) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended by revising the item relating to section 31108 to read as follows:

"31108. Motor carrier research and technology program.".

SEC. 4015. INTERNATIONAL COOPERATION.

(a) Chapter 311 of title 49, United States Code, is amended by inserting at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS

"§ 31161. International cooperation

"The Secretary is authorized to use funds appropriated under section 31104(i) of this title to participate and cooperate in international activities to enhance motor

carrier, driver, and highway safety by such means as exchanging information, conducting research; and examining needs, best practices, and new technology.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER IV—MISCELLANEOUS

''31161. International cooperation.''.

SEC. 4016. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT (PRISM).

(a) Paragraphs (2) and (3) of section 31106(b) of title 49, United States Code, are amended to read as follows:

''(2) The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

''(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

''(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

"(3) The Secretary shall require States, as a condition of participation in the program, to—

"(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4); and

"(B) possess or seek the authority to deny, suspend, or revoke commercial motor vehicle registrations based on the issuance of an operations out-of-service order by the Secretary.".

(b) DELETION.—Paragraph (4) of section 31106(b) of title 49, United States Code, is deleted.

(c) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

(1) Chapter 311 of title 49, United States Code, as amended by this Act, is further amended by adding a new section after section 31108, to read as follows:

"§ 31109. Performance and Registration Information System Management (PRISM)

"(a) IN GENERAL.—From the funds authorized by section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary may make a grant in a fiscal year to a State to

implement the Performance and Registration Information System Management requirements of 49 U.S.C. 31106(b).

"(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

"(c) SECRETARY'S APPROVAL.—Approval by the Secretary of a grant to a State under section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section is a contractual obligation of the Government for payment of the amount of the grant.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended after the item relating to section 31108 by adding the following:

"31109. Performance and Registration Information System Management (PRISM).".

SEC. 4017. INFORMATION SYSTEMS AND DATA ANALYSIS.

The Secretary of Transportation shall carry out a program to improve the collection and analysis of safety data on, including crash causation involving, commercial motor vehicles.

SEC. 4018. OUTREACH AND EDUCATION.

(a) IN GENERAL.—The Secretary shall conduct an outreach and education program to be administered by the Federal Motor Carrier Safety Administration. The program shall include expanded implementation of the ''Share the Road Safely'' and ''Safety is Good Business'' programs. The Federal Motor Carrier Safety Administration shall establish programs to directly educate the industry and public about the requirements of new and existing regulatory requirements. The Secretary, through the Federal Motor Carrier Safety Administration, may undertake other outreach and education initiatives that may reduce the number of accidents, injuries, and fatalities involving commercial motor vehicles.

(b) LIKELY RISK FACTORS.—The Secretary, through the Federal Motor Carrier Safety Administration, shall conduct an outreach program to identify the practices of commercial motor vehicle drivers that are most likely to increase and decrease the risk of accidents.

TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

Subtitle A—Funding

SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT AND DEPLOYMENT PROGRAM.—To carry out sections 502, 503, 506 and 507 of title 23, United States Code, and section 5206 of this Act relating to research, development, technology transfer, technology deployment, and application activities, $199,000,000 for each of fiscal years 2004 through 2009.

(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code, $26,000,000 for each of fiscal years 2004 through 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, the following:

(A) $31,568,000 for fiscal year 2004.

(B) $32,199,000 for fiscal year 2005.

(C) $32,869,000 for fiscal year 2006.

(D) $33,609,000 for fiscal year 2007.

(E) $34,439,000 for fiscal year 2008.

(F) $35,276,000 for fiscal year 2009.

(4) UNIVERSITY TRANSPORTATION RESEARCH.—For carrying out section 5505 of title 49,

United States Code, $26,500,000 for each of fiscal years 2004 through 2009.

(5) INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH.—For carrying out the Intelligent Transportation Systems Act of 2003 under subtitle E of this title, $121,000,000 for each of fiscal years 2004 through 2009.

(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—Section 502 of title 23, United States Code, is amended—

(1) by striking subsection (b)(3); and

(2) by redesignating subsections (b)(4) and (b)(5) as (b)(3) and (b)(4), respectively.

(c) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 100 percent unless otherwise determined by the Secretary or specified otherwise in this Act, and such funds shall remain available until expended.

Subtitle B—Research, Technology, and Education

SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.

(a) RESEARCH, TECHNOLOGY, AND EDUCATION.—Title 23, United States Code, is amended—

(1) in the table of chapters by striking—

"5. Research and Technology ..... 501";

and substituting—

"5. Research, Technology, and Education ..... 501";

and

(2) by striking the heading—

"CHAPTER 5—RESEARCH AND TECHNOLOGY"

and inserting—

"CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION.".

(b) STATEMENT OF PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—Section 502 of title 23, United States Code, is amended—

(1) by redesignating subsections (a) through (g) as subsections (b) through (h), respectively; and

(2) by inserting a new subsection (a) at the beginning, to read as follows:

"(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

"(1) COVERAGE.—Surface transportation research and technology development (R&T) shall in-

clude all activities leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices and approaches, through such mechanisms as field applications, education and training, and technical support.

"(2) FEDERAL RESPONSIBILITY.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when—

"(A) the work is of national significance;

"(B) it supports research in which there is a clear public benefit and private sector investment is less than optimal due to market failure;

"(C) it supports a Federal stewardship role in assuring that state and local governments use national resources efficiently; or

"(D) it presents the best means to support Federal policy goals compared to other policy alternatives.

"(3) ROLE.—Consistent with these Federal responsibilities, the Secretary of Transportation shall—

"(A) conduct research;

"(B) support and facilitate research and technology transfer activities by state highway agencies;

"(C) share results of completed research; and

"(D) support and facilitate technology and innovation deployment.

"(4) PROGRAM CONTENT.—A surface transportation research program shall include—

"(A) fundamental, long-term highway research;

"(B) research aimed at significant highway research gaps, and emerging issues with national implications; and

"(C) research related to policy and planning.

"(5) STAKEHOLDER INPUT.—Federally sponsored surface transportation R&T activities shall address the needs of partners and stakeholders, and provide for stakeholder input in preparation of a strategic plan for surface transportation R&T.

"(6) COMPETITION.—To the greatest extent possible, investment decisions for surface transportation R&T activities shall be based on the well-established principles of competition and merit review.

"(7) PERFORMANCE REVIEW.—Surface transportation R&T activities shall include a component of performance measurement.".

(c) TRANSPORTATION POOLED FUND PROGRAM.—Section 502(b) of title 23, United States Code, as redesignated by this Act, is amended by inserting the following at the end:

"(6) POOLED FUNDING.—

"(A) To promote effective utilization of available resources, the Secretary may cooperate with the States and other appropriate agencies in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

"(B) The Secretary may enter into contracts, cooperative agreements, grants, and other transactions as agent for all participating parties in carrying out such research, development, or technology transfer.".

(d) OPERATIONS ELEMENTS IN RESEARCH ACTIVITIES.—Section 502 of title 23, United States Code, is amended—

(1) in subsection (b)(1), as redesignated by this Act, by striking subparagraphs (B) and (C) and inserting the following:

"(B) all phases of transportation planning and development (including construction, transportation system management and operations, modernization, development, design, maintenance, safety, financing, and traffic conditions);

"(C) freight security processes and procedures; and

"(D) the effect of State laws on the activities described in subparagraphs (A) and (B).";

(2) in subsection (d)(5)(C), as redesignated by this Act, by inserting "system management and" after "transportation"; and

(3) in subsection (d), as redesignated by this Act, by inserting at the end:

"(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and non-recurrent congestion, and increase transportation system reliability.

"(13) Investigate processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations, liability, terrorist countermeasures, and the impact of good security practices on commerce and productivity.

"(14) Research, development, and technology transfer related to asset management.".

(e) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—Section 502 of title 23, United States Code, is amended by inserting at the end the following:

"(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

"(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

"(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support the—

"(A) conduct of highway research and development related to new highway technology;

"(B) development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality controlled construction practices, and durable materials; and

"(C) development of innovative highway products and practices.".

(f) EXPLORATORY ADVANCED RESEARCH PROGRAM.—Section 502 of title 23, United States Code, is amended by striking subsection (e), as redesignated by this Act, and inserting the following:

''(e) EXPLORATORY ADVANCED RESEARCH.—

''(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508, that involves and draws upon basic research results to provide a better understanding of problems and develop innovative solutions. The phrase ''exploratory advanced research'' conveys a more fundamental character, broader objective, multi-disciplinary nature, and greater uncertainty in expected outcomes than found in problem-solving research. In carrying out the program, the Secretary shall strive to develop partnerships with the public and private sectors.

''(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas of surface transportation research and technology as the Secretary determines appropriate, including the following:

"(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

"(B) Assessing the effects of transportation decisions on human health.

"(C) Development of surrogate measures of safety.

"(D) Environmental research.

"(E) Data acquisition techniques for system condition and performance monitoring.

"(F) System performance data and information processing needed to assess the day-to-day operational performance of the system in support of hour-to-hour operational decision making.".

(g) AUTHORITY TO PURCHASE PROMOTIONAL ITEMS.—Section 503 of title 23, United States Code, as amended by this Act, is further amended by inserting the following at the end:

"(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated under this or any other Act for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the

recruitment of individuals and to promote the programs of the Federal Highway Administration.''.

(h) FACILITATING TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section 502(c) of title 23, United States Code, as redesignated by this Act, is amended by striking paragraph (2) and inserting the following:

''(2) COOPERATION, GRANTS, CONTRACTS AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other transactions to fund, and accept funds from, the National Research Council/ Transportation Research Board, American Association of State Highway and Transportation Officials, State Departments of Transportation, cities, and counties, and their agents to conduct joint transportation research and technology efforts.''.

(i) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

(1) SURFACE TRANSPORTATION RESEARCH.—Chapter 5 of title 23, United States Code is amended by adding after section 504 the following:

"§ 505. Surface transportation research

''(a) AUTHORITY.—The Secretary of Transportation shall complete the 20-year long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 and the Transportation Equity Act For The 21st Century.

''(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

''(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

''(2) analyze the data obtained in carrying out subparagraph (A); and

''(3) prepare products to fulfill program objectives and meet future pavement technology needs.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23 is amended by inserting after item 504 the following:

''505. Surface transportation research.''.

(j) PROCUREMENT FOR RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Section

502(b) of title 23, United States Code, as redesignated by this Act, is amended by striking paragraph (3) and inserting the following:

"(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out research, development, and technology transfer activities related to transportation—

"(A) independently;

"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

"(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with the following: the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any Federal laboratory, Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.".

(k) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

(1) TITLE 23 AMENDMENT.—Section 502(h)(1) of title 23, United States Code, as redesignated by this Act, is amended by striking "Not later than

January 31, 1999, and January 31 of every second year thereafter,'' and inserting ''Not later than July 31, 2004, and July 31 of every second year thereafter,''.

(2) CONFORMING AMENDMENT TO TITLE 49, UNITED STATES CODE.—Section 308(e)(1) of title 49, United States Code, is amended by striking ''in March 1998, and in March of each even-numbered year thereafter'' and inserting ''not later than July 31, 2004, and July 31 of every second year thereafter,''.

SEC. 5202. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.

(a) SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.—Chapter 5 of title 23, United States Code, is amended by striking section 507 and inserting the following:

''§ 507. Surface transportation environment and planning cooperative research program

''(a) ESTABLISHMENT.—The Secretary shall establish and support a collaborative, public-private surface transportation environment and planning cooperative research program.

"(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences or other organization to support and carry out administrative and management activities relating to the governance of the surface transportation environment and planning cooperative research program.

"(c) ADVISORY BOARD.—The organization described in subsection (b) shall select an advisory board drawn from core partners that represent environment, transportation, and neutral interests, including the Department of Transportation, other Federal agencies, the States, local governments, nonprofit entities, academia, and the private sector.

"(d) GOVERNANCE.—The surface transportation environment and planning cooperative research program established under this section shall include the following administrative and management elements:

"(1) NATIONAL RESEARCH AGENDA.—The advisory board, in consultation with core partners and other stakeholders, shall develop and periodically update a national research agenda for the surface transportation environment and planning cooperative research program. The national research agenda shall include a multi-year strategic plan.

"(2) STAKEHOLDER INVOLVEMENT.—Stakeholders may:

"(A) submit research proposals;

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

"(C) receive research results.

"(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The organization described in subsection (b) may award research contracts and grants through open competition and merit review conducted on a regular basis.

"(4) EVALUATION OF RESEARCH.—

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

"(B) PROGRAMMATIC EVALUATIONS.—The organization described in subsection (b) may conduct periodic programmatic evaluations on a regular basis.

"(5) DISSEMINATION OF RESEARCH FINDINGS.—The organization described in subsection (b) shall disseminate research findings to researchers, practitioners, and decision-makers, through conferences and seminars, field demonstrations, work-

shops, training programs, presentations, testimony to Government officials, world wide web, and publications for the general public.

"(e) CONTENTS.—The national research agenda for the surface transportation environment and planning cooperative research program required under subsection (c)(2) shall include research in the following areas for the purposes cited:

"(1) HUMAN HEALTH.—Human health to establish the links between transportation activities and human health; substantiate the linkages between exposure to concentration levels, emissions, and health impacts; examine the potential health impacts from the implementation and operation of transportation infrastructure and services; develop strategies for avoidance and reduction of these impacts; and develop strategies to understand the economic value of health improvements; and for incorporating health considerations into valuation methods.

"(2) ECOLOGY AND NATURAL SYSTEMS.—Ecology and natural systems to measure transportation's short- and long-term impact on natural systems; develop ecologically based performance measures; develop insight into both the spatial and temporal issues associated with transportation and natural

systems; study the relationship between highway density and ecosystem integrity, including the impacts of highway density on habitat integrity and overall ecosystem health; develop a rapid assessment methodology for use by transportation and regulatory agencies in determining the relationship between highway density and ecosystem integrity; and develop ecologically based performance techniques to evaluate the success of highway project mitigation and enhancement measures.

"(3) ENVIRONMENTAL AND SOCIOECONOMIC RELATIONSHIPS.—Environmental and socioeconomic relationships to understand differences in mobility, access, travel behavior, and travel preferences across socioeconomic groups; develop improved planning approaches that better reflect and respond to community needs; improve evaluation methods for examining the incidence of benefits and costs; examine the differential impacts of current methods of finance and explore alternatives; understand the socioeconomic implications of emerging land development patterns and new transportation technologies; develop cost-effective applications of technology that improve the equity of the transport system; and de-

velop improved methods for community involvement, collaborative planning, and conflict resolution.

"(4) EMERGING TECHNOLOGIES.—Emerging technologies to assist in the transition to environmentally benign fuels and vehicles for passengers and freight; develop responses to and demand for new technologies that could offer improved environmental performance; identify possible applications of Intelligent Transportation Systems technologies for environmental benefit; develop policy instruments that would encourage the development of beneficial new technologies in a cost-effective manner; and respond to the impact of new technologies.

"(5) LAND USE.—Land use to assess land consumption trends and contributing factors of transportation investment, housing policies, school quality, and consumer preferences; incorporate impacts of transportation investments on location decision and land use; identify the costs and benefits of current development patterns and their transportation implications; determine the effect of the built environment on people's willingness to walk, drive, or take public transportation; determine the roles of public policy and institutional arrangements in current and prospective land use and transportation

choices; and develop improved data, methods, and processes for considering land use, transportation, and the environment in an integrated, systematic fashion.

"(6) PLANNING AND PERFORMANCE MEASURES.—Planning and performance measures to improve understanding of travel needs and preferences; improve planning methods for system analysis, forecasting, and decision making; expand information on consumer choice processes and travel and activity patterns for both local and long-distance trips and both passenger and freight transportation analysis of social, environmental, and economic benefits and cost of various transport options; develop tools for measuring and forecasting complex transportation decision for all modes and users; and develop performance measures and policy analysis approaches that can be used to determine effectiveness.

"(7) ADDITIONAL PRIORITIES.—Additional priorities to identify and address the emerging and future surface transportation research needs related to planning and environment.

"(f) FUNDING.—In addition to using funds authorized for this section, the organization that administers this program may seek and accept additional funding sources

from public and private entities capable of attracting and accepting funding from the United States Department of Transportation (Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, Research and Special Programs Administration, and the National Highway Traffic Safety Administration), Environmental Protection Agency, Department of Energy, Fish and Wildlife and other Federal environmental agencies, States, local governments, nonprofit foundations, and the private sector.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item related to section 507 and inserting the following:

''507. Surface transportation environment and planning cooperative research program.''.

SEC. 5203. LONG-TERM BRIDGE PERFORMANCE PROGRAM; INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.

(a) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—Section 502 of title 23, United States Code, is amended by striking 502(g), as redesignated by this Act, and inserting the following:

''(g) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall establish a 20 year long-term bridge performance program.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(A) monitor, material-test, and evaluate test bridges;

"(B) analyze the data obtained in carrying out subparagraph (A); and

"(C) prepare products to fulfill program objectives and meet future bridge technology needs.".

(b) INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.—

(1) IN GENERAL.—Section 503(b) of title 23, United States Code, is amended by striking 503(b)(1) and inserting:

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

(2) GOALS.—Section 503(b)(2) of such title is amended by striking 503(b)(2) and inserting:

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

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

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

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

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

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

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

"(G) the effective transfer of resulting information and technology.".

SEC. 5204. TECHNOLOGY DEPLOYMENT.

(a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 503(a) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking "initiatives and partnerships";

(2) by striking paragraph (1) and inserting the following:

"(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.".

(3) by striking paragraph (7) and inserting the following:

"(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials.

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

(4) by striking paragraph (8);

(5) by redesignating paragraph (9) as paragraph (10); and

(6) by inserting after paragraph (7) the following:

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

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

(b) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—Section 503 of title 23, United States Code, is amended by adding after subsection (b) the following:

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

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

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

"(A) the deployment of new, cost-effective innovative designs, materials, and practices to extend pavement life and performance and to improve customer satisfaction;

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

"(C) the deployment of accelerated construction techniques to increase safety and re-

duce construction time and traffic disruption and congestion;

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

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

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

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

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

(c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—Section 503 of title 23, United States Code, as amended by this Act, is further amended by adding the following:

"(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

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

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

"(A) the deployment and evaluation of safety technologies and innovations at state and local levels; and

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

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

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

"(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in

subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the grant meets the goals of the program described in paragraph (2).

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

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

SEC. 5205. TRAINING AND EDUCATION.

(a) NATIONAL HIGHWAY INSTITUTE.—Section 504(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) COURSES.—The Institute may develop and administer courses in modern developments, techniques, methods, regulations, management, and pro-

cedures in areas including surface transportation, environmental stewardship and streamlining, acquisition of rights-of-way, relocation assistance, engineering, safety, transportation system management and operations, construction, maintenance, contract administration, inspection, and highway finance.''.

(b) FEDERAL SHARE.—Section 504(b) of title 23, United States Code, is amended by adding at the end the following:

''(3) FEDERAL SHARE.—

''(A) GRANTS.—The grant funds authorized to carry out this subsection may be used to cover up to 50 percent of the program costs relating to local technical assistance. Funds available for technology transfer and training purposes under this title and title 49 may be used to cover the remaining 50 percent of the program costs.

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

(c) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—Section 504

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

"(d) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—

"(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(1), (3), and (4) and 144(e) of this title for surface transportation workforce development, training and education, including:

"(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

"(B) employee professional development;

"(C) student internships;

"(D) university or community college support; or

"(E) education outreach activities to develop interest and promote participation in surface transportation careers.

"(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent.".

(d) DEFINITIONS AND DECLARATION OF POLICY.—Section 101(a) of title 23, United States Code, as amended by this Act, is further amended—

(1) in paragraph (3), by—

(A) striking ''and'' after subparagraph (H);

(B) striking the period after subparagraph (I) and inserting ''; and''; and

(C) adding after subparagraph (I) the following:

''(J) surface transportation workforce development, training, and education.'';

(2) by redesignating paragraphs (36) through (39), as redesignated by this Act, as paragraphs (37) through (40) respectively; and

(3) by adding after paragraph (35), as redesignated by this Act, the following:

''(36) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—The term 'surface transportation workforce development, training, and education' means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers.''.

SEC. 5206. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) CONTINUATION AND ACCELERATION OF TRANSIMS DEPLOYMENT.—The Secretary shall accelerate the deployment of the advanced transportation model known as the Transportation Analysis Simulation System (''TRANSIMS''), developed by the Los Alamos National Laboratory. The program shall assist State departments of transportation and metropolitan planning organizations in the implementation of TRANSIMS, develop methods for TRANSIMS applications to transportation planning and air quality analysis, and provide training and technical assistance for the implementation of TRANSIMS. The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under section 5101(a)(1) of this Act to—

(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under the metropolitan planning section of chapter 52 of title 49, United States Code, rep-

resenting a diversity of populations, geographic regions and analytic needs to implement TRANSIMS;

(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support metropolitan and statewide transportation planning, including integrating highway and transit operational considerations into the transportation planning process; and

(3) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments and Metropolitan Planning Organizations with responsibility for travel modeling.

(c) ALLOCATION OF FUNDS.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).

Subtitle C—Multimodal Research Programs; Scholarship Opportunities

SEC. 5301. UNIVERSITY TRANSPORTATION RESEARCH.

Section 5505 of title 49, United States Code, is revised to read as follows:

"§ 5505. University transportation research

"(a) UNIVERSITY INDUSTRY GOVERNMENT PARTNERSHIPS.—The Secretary of Transportation shall make grants to nonprofit institutions of higher learning to address transportation management and research and development matters, with special attention to increasing the number of highly skilled individuals entering the field of transportation.

"(b) OBJECTIVES.—

"(1) Each university receiving a grant under this section shall conduct the following programs and activities:

"(A) Basic and applied research that supports the Department's transportation research agenda, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation.

"(B) An education program that includes multidisciplinary course work, faculty and student participation in research, and an opportunity for practical experience.

"(C) An ongoing program of technology transfer that makes the results of research and education activities broadly available to potential users in a form that can be implemented, utilized, or otherwise applied.

"(2) Each university shall elect as its primary objective either subsection (b)(1)(A) or (b)(1)(B) of this section and shall direct at least 50 percent of total costs to the accomplishment thereof.

"(c) SELECTION OF GRANT RECIPIENTS.—

"(1) In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

"(2) The Secretary shall select each recipient of a grant under this section through a competitive process in which applications are evaluated on the basis of the following:

"(A) The demonstrated research and extension resources available to the applicant to carry out this section.

"(B) The capability of the applicant to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

"(C) The applicant's demonstrated commitment of at least $200,000 in regularly-budgeted institutional amounts each year to support

ongoing transportation research and education programs.

"(D) The amount of matching funds for which the applicant has obtained binding commitments.

"(E) Evidence of the applicant's research and education partnerships with at least one private sector partner and at least one non-Federal Government partner.

"(F) The applicant's demonstrated ability to disseminate results of transportation research and education programs through national and statewide or regionwide continuing education and capacity-building programs.

"(G) The strategic plan the applicant proposes to achieve the objectives of the grant and—

"(i) if the applicant's primary objective is subsection (b)(1)(A) of this section, the strategic plan shall include a research plan that addresses more than one mode of transportation; or

"(ii) if the applicant's primary objective is subsection (b)(1)(B) of this section, the strategic plan shall include an edu-

cation plan that addresses multimodal issues.

"(d) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a recipient shall enter into an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to carry out the objectives of a grant at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

"(e) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section shall not exceed 50 percent of costs. The non-Federal share may include funds provided to a recipient under section 503, or 104(i) of title 23, United States Code.

"(f) PROGRAM ADMINISTRATION.—

"(1) The Secretary shall conduct all grant management and administration functions necessary to facilitate the research, education, training, and technology transfer activities that grant recipients carry out under this section; to coordinate these activities among the grant recipients; to ensure that the results of the research, education, training and tech-

nology transfer activities are widely disseminated; and to ensure the effective use of program resources.

"(2) At least annually and consistent with the plan developed under section 508 of title 23, United States Code, the Secretary shall review and evaluate programs the grant recipients carry out.

"(3) The Secretary may not use more than 1 percent of amounts made available from Government sources to carry out this subsection.

"(g) USE OF TRANSPORTATION RESEARCH INFORMATION SERVICES (TRIS) DATABASES.—

(1) Recipients of awards under this section shall make use of the National Research Council (NRC), Transportation Research Board (TRB), Transportation Research Information Services (TRIS) online databases for the following purposes:

"(A) Program development and strategic planning.

"(B) Reporting of active R&T activities undertaken with funding provided here.

"(C) Input and dissemination of results and reports from completed research.

"(2) Recipients shall recommend a representative to serve as liaison to the Transportation Research Board.

"(h) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this program shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which such funds are authorized.".

SEC. 5302. MULTIMODAL RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5506 of title 49, United States Code, is revised to read as follows:

"§ 5506. Multimodal research program

"(a) PURPOSE.—The Secretary shall establish a program to encourage and promote the research, development, demonstration and testing of technologies that have multimodal transportation applications, and shall foster adoption of those technologies in transportation through demonstration and testing to remove impediments to an efficient, safe, and cost-effective national transportation system.

"(b) OTHER RESEARCH ACTIVITIES.—To ensure the activities performed pursuant to this section achieve the maximum benefit, the Secretary, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and other relevant Federal agencies shall coordinate their research, development and demonstration activities related to heavy-duty vehicle technologies and hydrogen transportation and refueling infrastructure. Nothing in

this section may be construed to authorize the Secretary to conduct research, development, demonstration or testing activities that the Secretary of Energy or the Administrator of the Environmental Protection Agency is authorized to conduct, or to modify the authorities of the Secretary of Energy or the Administrator of the Environmental Protection Agency.

"(c) ADVANCED HEAVY-DUTY VEHICLE TECHNOLOGIES.—

"(1) The Secretary of Transportation shall conduct research, development, demonstration and testing to integrate emerging multimodal heavy-duty vehicle technologies in order to provide seamless, safe, secure and efficient transportation.

"(2) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $24,000,000 for fiscal year 2005, $25,000,000 for fiscal year 2006, $23,000,000 for fiscal year 2007, $18,000,000 for fiscal year 2008, and $10,000,000 for fiscal year 2009.

"(3) The funding made available under paragraph (2) of this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be

subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(d) HYDROGEN INFRASTRUCTURE SAFETY RESEARCH AND DEVELOPMENT.—

"(1) The Secretary of Transportation is authorized to conduct research, development, demonstration and testing on the safety aspects of hydrogen transportation and refueling infrastructure necessary to support the use of next generation vehicle technologies.

"(2) To carry out this subsection, there is authorized to be appropriated $1,000,000 for fiscal years 2004, $15,000,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $11,000,000 for fiscal year 2007, $9,000,000 for fiscal year 2008, and $6,000,000 for fiscal year 2009.

"(e) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.— The Secretary may enter into grants, cooperative agreements, and other transactions with Federal and other public agencies (including State and local governments) and private organizations and other persons to carry out this section.

"(f) COST SHARING.—At least 50 percent of the funding for projects authorized in this section must be provided by non-Federal sources.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 55 of title 49, United States Code, is amended by substituting the following for the item designated 5506:

"Sec. 5506. Multimodal research program.".

SEC. 5303. COMMERCIAL REMOTE SENSING PRODUCTS.

Section 5113 of the Transportation Equity Act of the 21st Century (23 U.S.C. 502 note) is amended by revising subsection (b) to read as follows:

"(b) PROGRAM.—

"(1) NATIONAL POLICY.—The Secretary shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

"(2) POLICY IMPLEMENTATION.—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under (b)(1) of this section.".

SEC. 5304. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM.

(a) IN GENERAL.—(1) The Secretary may establish and implement a scholarship program for the purpose of attracting qualified students for transportation-related critical jobs.

(2) The Secretary may accomplish this objective by developing a program in partnership with appropriate non-governmental institutions.

(b) PARTICIPATION AND FUNDING.—An operating administration of the Department of Transportation and the Office of Inspector General of the Department of Transportation (DOT) may participate in the scholarship program. Notwithstanding any other law, the Secretary may use funds available to an operating administration or from the Office of Inspector General for the purpose of carrying out this provision.

Subtitle D—Transportation Data and Analysis

SEC. 5401. BUREAU OF TRANSPORTATION STATISTICS.

Section 111 of title 49, United States Code, is amended by deleting subsections (b) through (k) and inserting the following new subsections, as follows:

''(b) DIRECTOR.—

"(1) The Bureau shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Director shall be appointed from among individuals who are qualified to serve by virtue of their training and experience in the collection, analysis and use of transportation data.

"(3) The Director shall report directly to the Secretary of Transportation.

"(4) The term of the Director shall be 4 years. The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.

"(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics and be responsible for carrying out the following duties:

"(1) Collecting, analyzing and disseminating data concerning the domestic and international movement of freight.

"(2) Collecting, analyzing and disseminating data concerning travel patterns for local and long-distance travel, at the local, State, national and international levels.

"(3) Developing, analyzing and disseminating information on the economics of transportation.

"(4) Building and disseminating the transportation layer of the National Spatial Data Infrastructure, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.

"(5) Developing, publishing and disseminating a comprehensive set of measures of investment, use, costs, performance and impacts of the national transportation system, including publishing an annual transportation statistics abstract; and identifying information needs and reviewing such needs at least annually with the Advisory Council on Transportation Statistics.

"(6) Conducting or supporting research relating to methods of gathering or analyzing transportation statistics and issuing guidelines for the collection of information by the Department in order to ensure that such information is accurate, relevant, comparable, accessible and in a form that permits systematic analysis.

"(d) COORDINATING COLLECTION OF INFORMATION.—The Director shall work with the operating admin-

istrations of the Department to establish and implement the Bureau's data programs and to improve the coordination of information collection efforts with other Federal agencies.

"(e) SUPPORTING TRANSPORTATION DECISION-MAKING.—The Director shall ensure that the statistics compiled under this section are relevant for transportation policy, planning, and decision making by the Federal Government, State and local governments, transportation-related associations, private businesses, and the public. The Director shall provide, to the Department's other operating administrations, technical assistance on collecting, compiling, analyzing and verifying transportation data and statistics and the design of surveys.

"(f) RESEARCH AND DEVELOPMENT GRANTS.—

(1) The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) if the grants—

"(A) provide for an alternative means of accomplishing program-related research;

"(B) contribute to research and development of new methods of data collection; or

"(C) improve the methods for sharing geographic data.

"(2) Not more than $500,000 of the amounts made available to carry out this section in a fiscal year may be used for Research and Development Grants.

"(g) TRANSPORTATION STATISTICS ANNUAL REPORT.—By March 31 of each year, the Director shall transmit to the President and Congress a report that includes information on the subjects covered by subsection (c) of this section, documentation of the methods used to obtain the information and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

"(h) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

"(i) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

"(1) authorize the Bureau to require any other department or agency to collect data; or

"(2) reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

"(j) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA COLLECTION.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge, of any corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer, employee or contractor of the Bureau, to answer completely and correctly to the best of his/her knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization, or to records or statistics in his/her official custody, contained in a data collection request prepared and submitted under the authority of subsection (c)(1), shall be fined not more than $500; and if the individual willfully gives a false answer to a question, shall be fined not more than $10,000.

"(k) PROHIBITION ON CERTAIN DISCLOSURES.—

"(1) An officer, employee or contractor of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;

"(B) use the information provided under subsection (c) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).

"(2)(A) No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c) with the Bureau or retained by an individual respondent.

"(B) A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) This subsection shall apply only to reports that permit information concerning an individual or

organization to be reasonably inferred by direct or indirect means.

"(3) In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.

"(l) DATA ACCESS.—The Director shall have access to transportation and transportation-related information in the possession of any Federal agency except information—

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

"(m) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

"(1) The Bureau of Transportation Statistics has an Advisory Council on Transportation Statistics.

"(2) It shall be the function of the advisory council established under this subsection to advise the Director of the Bureau of Transportation Statistics on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau of Transportation Statistics are of high quality and are based upon the best available objective information.

"(3) The advisory council established under this subsection shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States and who have expertise in transportation data collection or analysis or application (except for 1 member who shall have expertise in economics and 1 member who shall have expertise in statistics).

"(4) The Federal Advisory Committee Act (5 App. U.S.C.) shall apply to the advisory council established under this section, except that section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.".

Subtitle E—Intelligent Transportation Systems Research

SEC. 5501. SHORT TITLE.

This subtitle may be cited as the ''Intelligent Transportation Systems Act of 2003''.

SEC. 5502. GOALS AND PURPOSES.

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

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

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

(3) Protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting

State and local governments to achieve national environmental goals;

(4) Accommodation of the needs of all users of surface transportation systems, including operators of commercial vehicles, passenger vehicles, and motorcycles, including individuals with disabilities; and

(5) Improvement of the Nation's ability to respond to security related or other man made emergencies and natural disasters and enhancement of national defense mobility.

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

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

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

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

(4) promote the innovative use of private resources;

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

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

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

SEC. 5503. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

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

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

(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary, as appropriate, shall consult with the Secretary of Commerce, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, the Secretary of Homeland Security, the Director of the National Science Foundation, and the heads of other Federal departments and agencies.

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

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

cluding intelligent transportation systems, within metropolitan and statewide transportation planning processes.

(g) INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall—

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

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

(2) AGREEMENT.—

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

(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal financial assistance under this section.

(h) ADVISORY COMMITTEES.—

(1) IN GENERAL.—In carrying out this subtitle, the Secretary may use one or more advisory committees.

(2) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(i) EVALUATIONS.—

(1) GUIDELINES AND REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the evaluation of operational tests and deployment projects carried out under this subtitle.

(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the

size and scope of each test or project that ensure adequate evaluation of the results of the test or project.

(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

(j) USE OF RIGHTS-OF-WAY.—Intelligent transportation system projects specified in sections 5117(b)(3) and 5117(b)(6) of the Transportation Equity Act for the 21st Century and involving privately owned intelligent transportation system components that are carried out using funds made available from the Highway Trust Fund shall not be subject to any law or regulation of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been utilized for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest. Nothing in this subsection shall affect the authority of a State or political subdivision of a State to regulate highway safety.

SEC. 5504. NATIONAL ARCHITECTURE AND STANDARDS.

(a) IN GENERAL.—

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

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

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

(b) PROVISIONAL STANDARDS.—

(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection

(a), the Secretary may establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

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

(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

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

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

(A) projects designed to achieve specific research objectives outlined in the National ITS

Program Plan or the Surface Transportation Research and Development Strategic Plan developed under section 508 of title 23, United States Code; or

(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subtitle, if the Secretary determines that the upgrade or expansion—

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

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

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

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

SEC. 5505. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and

other similar activities that are necessary to carry out this subtitle.

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

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

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

(3) enhance security through improved response to security related emergencies, and improved transportation security systems; and

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

(c) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.

SEC. 5506. USE OF FUNDS.

(a) OUTREACH AND PUBLIC RELATIONS LIMITATION.—

(1) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subtitle shall be used for intelligent transportation system outreach, public relations, displays, scholarships, tours, and brochures.

(2) APPLICABILITY.—Paragraph (1) shall not apply to intelligent transportation system training or the publication or distribution of research findings, technical guidance, or similar documents.

(b) INFRASTRUCTURE DEVELOPMENT.—Funds made available to carry out this subtitle for operational tests—

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

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

SEC. 5507. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) INCIDENT.— In this section, the term ''incident'' means a crash, a natural disaster, work zone activity, special event, or other emergency road user

occurrence that adversely affects or impedes the normal flow of traffic.

(2) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term ''intelligent transportation infrastructure'' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

(3) INTELLIGENT TRANSPORTATION SYSTEM.—The term ''intelligent transportation system'' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

(4) NATIONAL ARCHITECTURE.—The term ''national architecture'' means the common framework for interoperability that defines—

(A) the functions associated with intelligent transportation system user services;

(B) the physical entities or subsystems within which the functions reside;

(C) the data interfaces and information flows between physical subsystems; and

(D) the communications requirements associated with the information flows.

(5) PROJECT.—The term ''project'' means a undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

(6) STANDARD.—The term ''standard'' means a document that—

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

(B) may support the national architecture and promote—

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

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

(7) STATE.—The term ''State'' has the meaning given the term under section 101 of title 23, United States Code.

(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term ''transportation systems management and operations'' has the meaning given the term under section 101(a) of title 23, United States Code, as amended by section 1701 of this Act.

SEC. 5508. REPEAL.

The Transportation Equity Act for the 21st Century is amended by striking subtitle C of title V.

TITLE VI—TRANSPORTATION PLANNING; INTERMODAL FACILITIES

SEC. 6001. TRANSPORTATION PLANNING.

(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding the following after chapter 51:

''CHAPTER 52—TRANSPORTATION PLANNING

''Sec.
''5201. Policy.
''5202. Definitions.
''5203. Metropolitan transportation planning.
''5204. Statewide transportation planning.

''§ 5201. Policy

''(a) It is in the national interest to—

"(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air and water pollution through metropolitan and statewide transportation planning processes identified in this chapter;

"(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State Departments of Transportation, and public transit operators through the use of performance-based approaches in the development of transportation plans and investments as guided by the planning factors identified in subsection 5203(f) and 5204(d) of this chapter; and

"(3) encourage private enterprise participation in projects and transportation services.

"(b) The provisions of sections 5203–5204 of this chapter shall be jointly administered by the Federal Highway and Federal Transit Administrators.

"§ 5202. Definitions

''(a) Unless otherwise specified in subsection (b), the definitions in section 101(a) of title 23 and section 5302 of this title are applicable to this chapter.

''(b) As used in this chapter—

''(1) CONSULTATION.—The term 'consultation' means that one party confers with another identified party in accordance with an established process and, prior to taking action(s), considers that party's views and periodically informs that party about action(s) taken.

''(2) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization and the Governor as defined in section 5203(c) of this title.

''(3) METROPOLITAN PLANNING ORGANIZATION (MPO).—The term 'metropolitan planning organization' means the Policy Board of the organization created as a result of the designation process defined in section 5203(b) of this title.

''(4) NON-METROPOLITAN AREA.—The term 'non-metropolitan area' means the geographic area outside designated metropolitan planning areas.

''(5) NON-METROPOLITAN LOCAL OFFICIAL.—The term 'non-metropolitan local official' means

elected and appointed officials of general purpose local government, in non-metropolitan areas, with jurisdiction/responsibility for transportation.

"(6) URBANIZED AREA.—The term 'urbanized area' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

"(7) STATE.—The term 'State' means a State of the United States, the District of Columbia, and Puerto Rico.

"§ 5203. Metropolitan transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS.—To accomplish the objectives stated in section 5201, metropolitan planning organizations designated under subsection (b) of this section, in cooperation with the State and public transportation operators, shall develop transportation plans for metropolitan planning areas of the State.

"(2) CONTENTS.—The plans for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system

for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(4) PLANNING AND PROJECT DEVELOPMENT.—The metropolitan planning organization, the State Department of Transportation, and the appropriate public transportation provider shall agree upon the approaches that will be used to evaluate alternatives and identify transportation improvements that address the most complex problems and pressing transportation needs in the metropolitan area.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization (MPO) shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) STRUCTURE.—Each metropolitan planning organization that serves an area identified as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; and

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

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

"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropoli-

tan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Office of Management and Budget.

"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metro-

politan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of this paragraph shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (c)(5).

"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of this paragraph in a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established in the manner described in subsection (b)(1);

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

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

"(D) may address any nonattainment identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

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

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

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

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

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

"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5204.

"(C) INTERSTATE COMPACT.—

"(i) IN GENERAL.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metro-

politan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

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

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

"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and under chapter 53 of this title, not more than 1 percent of the funds allocated under

section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

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

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

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

"(e) COORDINATION OF MPOS.—

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

"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the highway trust fund, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

"(3) INTERREGIONAL AND INTERSTATE PROJECT IMPACTS.—Planning for NHS, commuter rail projects or other projects with substantial impacts outside a single metropolitan planning area or State shall be coordinated directly with the affected, contiguous MPOs and States.

"(4) COORDINATION WITH OTHER PLANNING PROCESSES.—The Secretary shall encourage each MPO to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local planned growth, economic development, environmental protection, airport operations, and freight. The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include

the design and delivery of transportation services within the metropolitan area that are provided by—

"(A) recipients of assistance under chapter 53 of this title;

"(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and

"(C) recipients of assistance under section 204 of title 23.

"(f) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address the following factors as they relate to the performance of the metropolitan area transportation systems to—

"(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency, including through services provided by public and private operators;

"(B) increase the safety of the transportation system for motorized and nonmotorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and for freight, including through services provided by public and private operators;

"(E) protect and enhance the environment, promote energy conservation, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

"(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight, including through services provided by public and private operators;

"(G) promote efficient system management and operation; and

"(H) emphasize the preservation of the existing transportation system, including services provided by public and private operators.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a transportation improvement plan, a project or strategy, or the certification of a planning process.

"(g) DEVELOPMENT OF TRANSPORTATION PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update at least every five years a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

"(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

"(A) An identification of transportation facilities (including but not necessarily limited to major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national

and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. However, no illustrative project may be advanced without an action of the Secretary. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

"(C) Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

"(D) Capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

"(E) Proposed transportation and transit enhancement activities.

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

"(4) TRANSPORTATION CONFORMITY.—

"(A) For the purposes of Section 7506 of title 42, United States Code, the transportation plan shall be considered to be a transportation

plan or a portion of a transportation plan, developed pursuant to this section that extends for the longest of the following periods—

"(i) the first 10-year period of any such plan,

"(ii) the latest year in the area's applicable implementation plan which contains a motor vehicle emissions budget, or

"(iii) the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

"(B) A regional motor vehicle emissions analysis for the last year of the transportation plan shall be developed for information purposes only, if such year extends beyond the time frame established by subparagraph (A). The results of the analysis shall be provided to involved governors, the Administrator of the Environmental Protection Agency, and the Secretary of the Department of Transportation, and should be considered by air quality and transportation planning agencies in subsequent updates of air quality and transportation plans.

The results of this analysis shall be made available to the public.

"(5) PARTICIPATION BY INTERESTED PARTIES.—Before the approval of a transportation plan by the Governor and metropolitan planning organization, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the transportation plan, in a manner that the Secretary deems appropriate.

"(6) APPROVAL OF TRANSPORTATION PLAN.—

"(A) Each transportation plan prepared by a metropolitan planning organization shall be—

"(i) approved by the MPO, and

"(ii) submitted to the Governor for approval of the first five years of the plan.

"(B) The projects listed in the first five years of the plan may be selected for advancement consistent with the project selection re-

quirements. Major amendments (addition, deletion, or concept and scope change of a regionally significant project) to this list would require appropriate public involvement, financial planning, transportation conformity analyses and a finding by the FHWA and FTA that the amended plan was produced in a manner consistent with this section.

"(7) INCLUDED PROJECTS.—

"(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND CHAPTER 53 OF TITLE 49.—A transportation plan developed under this section for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of title 23 and chapter 53 of title 49.

"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23—REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation plan.

"(C) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally signifi-

cant shall be grouped in 1 line item or identified individually in the metropolitan transportation plan.

''(8) SELECTION OF PROJECTS.—

''(A) IN GENERAL.—Except as otherwise provided in subsection (h)(4) the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

''(i) by—

''(I) in the case of projects under chapter 1 of title 23, the State;

''(II) in the case of projects under section 5307 of this title, the designated transit funding recipients; and

(III) in the case of projects under 5308, 5310, 5311, and 5317, the State; and

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

''(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project from the first five

years of the plan included in the approved transportation plan in place of another project in the same five-year period.

"(9) PUBLICATION.—

"(A) PUBLICATION OF TRANSPORTATION PLAN.—A transportation plan involving federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

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

"(h) TRANSPORTATION MANAGEMENT AREAS.—

"(1) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau

of the Census) with a population of over 200,000 individuals.

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

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 of this title through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one-year after the identification of a transportation management area.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of this title shall be selected for implementation from the approved transportation plan by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects, carried out within the boundaries of a metropolitan planning area serving a transportation management area, on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved transportation plan by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process of an MPO serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 5 years that the requirements of this paragraph are met with respect to the metropolitan planning process.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

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

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of an metropolitan planning organization serving a TMA is not certified, the Secretary may withhold a portion or all of the funds available to metropolitan planning area of the metropolitan planning organization for projects funded under title 23 and chapter 53 of this title.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

"(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

"(i) ABBREVIATED PLANS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan for the metro-

politan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(j) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or chapter 53 of this title, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

"(k) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53 of this title.

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

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

"(n) RELATIONSHIP TO THE NEPA PROCESS.—

"(1) To expedite the planning and development of transportation improvements in compliance with this section and section 5204 and the National Envi-

ronmental Policy Act (42 U.S.C. 4321 et seq.), to facilitate compliance with the Clean Water Act (33 U.S.C. 1251 et seq.) and other Federal environmental laws, and to fulfill the directive in section 1308 of the Transportation Equity Act for the 21st Century, Public Law 105–206, to integrate the major investment study requirement into the transportation planning and National Environmental Policy Act processes, the Secretary and heads of other Federal agencies shall presume that the results of studies developed as part of the planning process establish the basis for an environmental assessment or impact statement, provided that such studies, pursuant to the provisions of this section—

"(A) are consistent with subsection (a)(4) of this section;

"(B) provided opportunities for citizens and interested parties to participate during the studies;

"(C) included consideration of an appropriate range of alternatives, such as alternative modes, technologies, general alignments, and policies; and

"(D) considered the planning factors of subsection (f)(1).

"(2) The results of studies developed as part of the planning process and that are presumed to establish the basis for an environmental assessment or impact statement, as described in subsection (1) of this section, include, but are not limited to—

"(A) the purpose and need;

"(B) the alternatives selected for evaluation in an environmental assessment or impact statement; and

"(C) an assessment of environmental impacts related to development growth, including indirect and cumulative effects, that is consistent with local land use, growth management, or development plans.

"(3) The results of studies developed during the planning process may be appended to or incorporated by reference in and used to substantiate an environmental assessment or impact statement.

"§ 5204. Statewide transportation planning

"(a) GENERAL REQUIREMENTS.—

"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5201, each State shall develop a statewide transportation plan and a statewide Transportation

Improvement Program (STIP) for all areas of the State subject to section 5203.

"(2) CONTENTS.—The statewide transportation plan and the STIP developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.

"(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the STIP shall provide for consideration of all modes of transportation and the policies stated in section 5201, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

"(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5203 of this title for metropolitan areas of the State and with other related

Statewide planning activities such as trade and economic development and related multi-State planning efforts,

"(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.), and

"(3) participate in the integration of planning and environmental studies pursuant to section 5203(n) of this chapter.

"(c) INTERSTATE AGREEMENTS.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

"(d) SCOPE OF PLANNING PROCESS.—

"(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration of projects, strategies and implementing projects and services that will—

"(A) support the economic vitality of the United States, the States, non-metropolitan areas, and metropolitan areas, especially by en-

abling global competitiveness, productivity, and efficiency;

"(B) increase the safety of the transportation system for motorized and non-motorized users;

"(C) increase the security of the transportation system for motorized and nonmotorized users;

"(D) increase the accessibility and mobility of people and freight;

"(E) protect and enhance the environment, promote energy conservation, promote consistency between transportation improvements and State and local planned growth and economic development patterns, and improve the quality of life;

"(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;

"(G) promote efficient system management and operation; and

"(H) emphasize the preservation of the existing transportation system.

"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) of this subsection shall not be reviewable by any court under title 23 or this title, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the STIP, a project or strategy, or the certification of a planning process.

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

"(1) with respect to non-metropolitan areas, the concerns of affected local officials with responsibility for transportation;

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

"(3) coordination of transportation plans, the STIP, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States;

"(f) STATEWIDE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a statewide transportation plan, with a minimum

20-year forecast period, updated at least every five years, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5203.

"(B) NON-METROPOLITAN AREAS.—With respect to non-metropolitan areas, the statewide transportation plan shall be developed in consultation with affected non-metropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

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

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the statewide transportation plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(4) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, addi-

tional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

"(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (4).

"(6) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

"(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP).—

"(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization

designated for the metropolitan area under section 5203.

"(B) NON-METROPOLITAN AREAS.—With respect to each non-metropolitan area in the State, the program shall be developed in consultation with affected non-metropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.

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

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

reasonable opportunity to comment on the proposed program.

"(4) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A transportation improvement program developed under this subsection for a state shall include federally supported surface transportation expenditures within the boundaries of the State. The program shall cover a minimum of five years, identify projects by year, be fiscally constrained by year, and be updated at least every five years. An annual listing of projects for which funds have been obligated in the preceding five years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program. Other projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually. The listing shall be con-

sistent with the funding categories identified in the first five years of each metropolitan transportation plan.

"(B) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

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

"(ii) identical to the project or phase of the project as described in each year of the initial five years of an approved metropolitan transportation plan; and

"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(C) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The STIP shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to

be available for the project within the time period contemplated for completion of the project.

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

"(E) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

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

"(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be

required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (D) for inclusion in an approved STIP.

"(F) PRIORITIES.—The STIP shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and chapter 53 of this title, and transportation control measures included in the State's air quality implementation plan.

"(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved STIP (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program under title 23 or sections 5308, 5310, 5311, and 5317 of this title), by the State in cooperation with the affected non-metropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System

or under the bridge program or the interstate maintenance program under title 23 or under sections 5308, 5310, 5311, and 5317 of this title shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials with responsibility for transportation.

"(6) STIP APPROVAL.—A STIP developed under this subsection shall be reviewed and based on a current Planning Finding approved at least every five years by the Secretary.

"(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every five years that the transportation planning process(es) through which statewide transportation plans and programs are developed are consistent with this section and section 5203.

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

"(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5305(h) of this title shall be available to carry out this section.

"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5203 of this title, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5203(h)(3) if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill the intent of, the purposes of section 5203, as appropriate.

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

"(k) INTEGRATION OF PLANNING AND ENVIRONMENTAL STUDIES.—Section 5203(n) of this chapter shall also apply to the planning process established under this section, except that the planning factors to be considered shall be those set forth in subsection (d) of this section.".

(b) CONSISTENCY OF CONFORMITY TIMING WITH THE TRANSPORTATION PLAN.—Section 7506(c)(4) of title 42, United States Code, is amended—

(1) in subparagraph (B)(ii) by striking ", but in no case shall such determinations for transportation plans and programs be less frequent than every three years", and inserting "but the frequency for making conformity determinations for transportation plans must be consistent with subparagraph (E)"; and

(2) by inserting after subparagraph (D) the following:

"(E) The frequency for making conformity determinations on updated transportation plans shall be every five years, except when:

"(i) the metropolitan planning organization chooses to update a transportation plan more frequently, or

"(ii) changes to the applicable implementation plan trigger a new conformity

determination, as provided in regulations promulgated by the Administrator pursuant to subparagraph (A) above.''.

(c) CONFORMING CLARIFICATION.—Upon date of enactment of this Act, the references to ''program'' and ''improvement program'' in section 7506 of title 42, United States Code, shall refer to the transportation plan developed pursuant to section 5203 of title 49, United States Code.

(d) STREAMLINED STATE CONFORMITY RULE REQUIREMENTS.—Section 7506(c)(4)(C) of title 42, United States Code, is amended to read as follows:

''(C) Such procedures shall also include a requirement that each State shall submit to the Administrator and the Secretary of Transportation, within 24 months of such date of enactment, a revision to its implementation plan that includes criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (B)(i) of this paragraph.''.

(e) CONFORMING AMENDMENTS.—(1) The table of chapters for title 49, United States Code, is amended by inserting the following after the item relating to chapter 51:

''52. Transportation Planning ..... 5201''.

(2) The chapter analysis for Subtitle III of title 49, United States Code, is amended by inserting the following after the item relating to chapter 51:

"52. Transportation Planning ..... 5201".

SEC. 6002. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding the following at the end:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§ 5571. Policy and purposes

"(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

"(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

"(1) assuring intercity public transportation access to intermodal passenger facilities;

"(2) encouraging the development of an integrated system of public transportation information; and

"(3) providing intercity bus intermodal passenger facility grants.

§ 5572. Definitions

"In this subchapter—

"(1) 'capital project' means a project for—

"(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

"(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, inter-

city rail, public transportation, and the National Highway System through an integrated system of public transportation information.

''(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

''(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

''(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intra-city rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities,

taxis, private parking, and other transportation services.

"(5) 'local governmental authority' includes—

"(A) a political subdivision of a State;

"(B) an authority of at least one State or political subdivision of a State;

"(C) an Indian tribe; and

"(D) a public corporation, board, or commission established under the laws of the State.

"(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

"(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

"(8) 'Secretary' means the Secretary of Transportation.

"(9) 'state' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

"(10) 'urban area' means an area that includes a municipality or other built-up place that the Sec-

retary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

"§ 5573. Assurance of access to intermodal passenger facilities

''Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities including, but not limited to, those passenger facilities seeking funding under section 5574.

"§ 5574. Intercity bus intermodal passenger facility grants

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project, as defined in section 5572 of this chapter, only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

''(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

''(c) SHARE OF NET PROJECT COSTS.—

"(1) A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

"(2) The portion of the net costs of an eligible project that is not funded under this section shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital and may include up to 30 percent from amounts appropriated to or made available to a department or agency of the Federal government that are eligible to be expended for transportation.

"(d) REGULATIONS.—The Secretary may issue regulations necessary to carry out this section.

"§ 5575. Funding

"(a) MASS TRANSIT ACCOUNT.—

"(1) FUNDING.—To carry out this Subchapter, there is authorized to be appropriated for each of fiscal years 2005 through 2009 from the Mass Transit Account of the Highway Trust Fund the amounts made available under section 5338(a)(2)(O) of this title.

"(2) CONTRACTUAL OBLIGATIONS.—A grant approved by the Secretary of Transportation that is financed with amounts made available under subsection (a) of this section is a contractual obligation

of the United States Government to pay the Government's share of the cost of the project.

"(b) HIGHWAY ACCOUNT.—

"(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

"(2) The funding made available under paragraph (1) of this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

"(c) PERIOD OF AVAILABILITY.—Amounts made available by subsection (a) of this section shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The table of contents for chapter 55 of title 49, United States Code, is amended by inserting the following at the end:

"SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
"5571. Policy and Purposes.
"5572. Definitions.
"5573. Assurance of access to intermodal facilities.
"5574. Intercity bus intermodal facility grants.
"5575. Funding.".

TITLE VII—MISCELLANEOUS

Subtitle A—Railroads

SEC. 7101. RAIL CORRIDOR PLANNING.

Section 26101(b)(1) of title 49, United States Code, is amended in the first sentence thereof by adding ''(1)'' after the word ''determines'' and by adding ''or (2) that it is necessary to help promote an effective and efficient system of conventional speed intercity rail passenger operations'' after the word ''improvements''.

SEC. 7102. HIGH SPEED RAIL AUTHORIZATIONS.

Section 26104 of Title 49, United States Code, is revised to read as follows:

''§ 26104. Authorization of appropriations

''(a) There are authorized to be appropriated to the Secretary $25,000,000 each year for fiscal years 2004 through 2009 for carrying out section 26101 (including payment of administrative expenses related thereto).

''(b) There are authorized to be appropriated to the Secretary $25,000,000 each year for fiscal years 2004 through 2009 for carrying out section 26102 (including payment of administrative expenses related thereto).''

''(c) Funds made available under this section shall remain available until expended.''.

Subtitle B—Miscellaneous Technical Corrections to Title 49

SEC. 7201. CORRECTION OF OBSOLETE REFERENCES TO INTERSTATE COMMERCE COMMISSION.

(a) Except as otherwise provided, a reference in this section to an amendment to, or a repeal of, a section or other provision is deemed to be a reference to a section or other provision of title 49, United States Code.

(b)(1) Section 307 (Safety information and intervention in Interstate Commerce Commission proceedings) is repealed.

(2) The analysis of chapter 3 is amended by striking the item designated ''307''.

(c) Subsections (d)(1)(C) and (e) of section 333 (Responsibility for rail transportation unification and coordination projects) are amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

(d) Section 10903(b)(2) is amended by striking ''24706(c) of this title'' and substituting ''24706(c) of this title before May 31, 1998''.

(e) Section 13541(a) is amended by striking ''finds that'' and all that follows, and substituting—''finds that

the exemption is in the public interest and that the application of that provision—

"(1) is not necessary to carry out the transportation policy of section 13101; and

"(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope.".

(f)(1) Section 14704 (Rights and remedies of persons injured by carriers or brokers) is amended as follows:

(A) In subsection (a) —

(i) strike "IN GENERAL.—" and all that follows through "injured" and substitute "ENFORCEMENT OF ORDER.—A person injured"; and

(ii) redesignate paragraph (2) as subsection (b)(2); and

(B) In subsection (b), by striking "Liability and damages" and all that follows through "A carrier" and substitute "LIABILITY AND DAMAGES.—(1) A carrier".

(2) Section 14705(c) is amended by striking "14704(b)" and substituting "14704(b)(2)".

(g)(1) Subsection (c)(3) of section 24307 (Special transportation) is amended by striking "Interstate Com-

merce Commission'' and substituting ''Surface Transportation Board''.

(2) Section 24308 (Use of facilities and providing services to Amtrak) is amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

(3) Section 24311 (Acquiring interests in property by eminent domain) is amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

(4) Section 24902 (Goals and requirements) is amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

(5) Section 24904 (General authority) is amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

Subtitle C—Hazardous Material Transportation

SEC. 7301. DEFINITIONS.

Section 5102 of title 49, United States Code, is amended by revising paragraph (1) to read as follows:

"(1) 'commerce' means trade or transportation in the jurisdiction of the United States

"(A) between a place in a State and a place outside of the State;

"(B) that affects trade or transportation between a place in a State and a place outside of the State; or

"(C) on a United States-registered aircraft."

SEC. 7302. REPRESENTATIONS AND TAMPERING WITH HAZARDOUS MATERIAL PACKAGING.

Section 5103(b)(1) of title 49, United States Code, is amended by revising subparagraph (A) to read as follows:

"(A) apply to a person that—

"(i) transports a hazardous material in commerce;

"(ii) causes a hazardous material to be transported in commerce;

"(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce;

"(iv) prepares, accepts, or rejects hazardous material for transportation in commerce;

"(v) is responsible for the safety of transporting hazardous material in commerce;

"(vi) certifies compliance with any requirement issued under this chapter;

"(vii) misrepresents whether it is engaged in any of the above activities; or

"(viii) performs any other act or function relating to the transportation in commerce of a hazardous material; and".

SEC. 7303. HAZARDOUS MATERIAL TRANSPORTATION SAFETY AND SECURITY.

(a) ENHANCED AUTHORITY TO DISCOVER HIDDEN SHIPMENTS OF HAZARDOUS MATERIAL.—Section 5121 of title 49, United States Code, is amended by revising subsection (c) to read as follows:

"(c) INSPECTIONS AND INVESTIGATIONS.—(1) A designated officer or employee of the Secretary may—

"(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property related to a function described in section 5103(b)(1) of this chapter;

"(B) except for the packaging immediately adjacent to its hazardous material contents, gain access to, open, and examine a package offered for, or in, transportation when the officer or employee has an objectively reasonable and articulable belief that the package may contain a hazardous material;

"(C) remove from transportation a package or related packages in a shipment offered for or in transportation, and for which such officer or employee has an objectively reasonable and articulable belief that the package or packages may pose an imminent hazard, and for which the officer or employee contemporaneously documents that belief in accordance with procedures established by the Secretary;

"(D) gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or

packages, to ascertain the nature and hazards of the contents of the package or packages;

"(E) as necessary, under terms and conditions specified by the Secretary, order the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or packages to have the package or packages transported to, opened and the contents examined and analyzed at a facility appropriate for the conduct of this activity; and

"(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in the activities conducted under this subsection.

"(2) An officer or employee acting under this subsection shall display proper credentials when requested.

"(3) For instances when, as a result of the inspection or investigation, an imminent hazard is not found to exist, the Secretary shall develop procedures to assist in the safe resumption of transportation of the package or transport unit.".

(b) EMERGENCY AUTHORITY FOR HAZARDOUS MATERIAL TRANSPORTATION.—Section 5121 is amended by striking subsection (e), redesignating subsection (d) as

subsection (e), and adding a new subsection (d) to read as follows:

"(d) EMERGENCY ORDERS.—

"(1) If, upon inspection, investigation, testing, or research, the Secretary determines that either a violation of a provision of this chapter or a regulation issued under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

"(2) The Secretary's action under paragraph (1) of this subsection shall be in a written order describing the violation, condition or practice that is causing the imminent hazard, and stating the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed. The order also shall describe the standards and procedures for obtaining relief from the emergency order.

"(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of

title 5, if a petition for review is filed within 20 calendar days after issuance of the order.

''(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.

''(5) For purposes of this subsection, ''out-of-service order'' means a mandate that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, portable tank, or other package not be moved until specified conditions have been met.''

(c) SECURITY-SENSITIVE INFORMATION.—Section 5121 is revised by adding a new subsection (f) to read as follows:

''(f) SECURITY-SENSITIVE INFORMATION.—

''(1) If the Secretary determines that particular information may reveal a vulnerability of a hazardous material to attack during transportation in commerce, or may facilitate the diversion of hazardous material during transportation in commerce for use in an attack on people or property, the information may be disclosed only—

"(A) to an owner, custodian, offeror or carrier of the hazardous material;

"(B) to an officer, employee or agent of a Federal, State, or local government, including a volunteer fire department, concerned with carrying out transportation safety laws, protecting hazardous material during the course of transportation in commerce, protecting public safety, or national security issues, or enforcing federal laws designed to protect public health or the environment; or

"(C) in an administrative or judicial proceeding brought under this chapter, under other federal law designed to protect public health or the environment, or one that addresses terrorist actions or threats of such actions.

"(2) The Secretary may make a determination under subsection (1) of this section with respect to a category of information by regulation.

"(3) A release of information pursuant to a determination under subsection (1) of this section is not a release to the public within the meaning of 5 U.S.C. 552.".

(d) ENHANCEMENTS TO SECURITY RISK ASSESSMENT AND EMERGENCY PREPAREDNESS.—Section 5121 is amended by inserting the following after subsection (f):

"(g) AUTHORITY FOR GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other entity to expand the risk assessment and emergency response capability with respect to hazardous materials security issues and to carry out this chapter.".

(e) CARGO INSPECTION PROGRAM.—The Secretary of Transportation may randomly inspect cargo at U.S. Customs ports of entry in order to determine the extent to which undeclared hazardous material is being offered for transportation in commerce. Under this program, an officer or employee of the Secretary may open and inspect any cargo shipment at a U.S. Customs port of entry if that shipment has been randomly selected for inspection by a Department supervisor who is not on site. The Department of Transportation shall ensure that random inspections under this program are coordinated in advance with the Department of Homeland Security and provide

for the effective handling and disposition of any violations found. The Secretary shall initiate such a program within one year after the date of enactment of this Act.''

SEC. 7304. ADMINISTRATIVE AUTHORITY FOR TRANSPORTATION SERVICE AND INFRASTRUCTURE ASSURANCE RESEARCH.

Section 112 of title 49, United States Code, is amended by adding the following new subsection to the end:

''(f) ADMINISTRATIVE AUTHORITY.—

''(1) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Administrator may enter into grants, cooperative agreements, and other transactions with Federal or other public agencies (including State and local governments) and private organizations and other persons to conduct research into transportation service and infrastructure assurance and to carry out research activities of the Administration.

''(2) PROHIBITION ON CERTAIN DISCLOSURES.—If the Administrator determines that particular information developed in research sponsored by the Administration may reveal a systemic vulnerability of transportation service or infrastructure, the information may be disclosed only to a person

responsible for the security of the transportation service or infrastructure or with protecting public safety or to an officer, employee, or agent of a Federal, State or local government unit whose need for the information in the performance of duties is concurred in by the Administrator. A release of information subject to a determination under this section is not a release to the public within the meaning of 5 U.S.C. 552.''.

SEC. 7305. POSTAL SERVICE CIVIL PENALTY AUTHORITY.

(a) Section 3001 of title 39, United States Code, is amended by adding a new subsection (o) as follows:

''(o)(1) Except as permitted by law and Postal Service regulation, hazardous material is nonmailable.

''(2) For purposes of this section, the term 'hazardous material' means a substance or material the Secretary of Transportation designates under section 5103(a) of title 49.''.

(b) Chapter 30 of title 39, United States Code, is amended by adding a new section 3018 at the end as follows:

''Sec. 3018. Hazardous material; civil penalty

''(a) REGULATIONS.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

"(b) HAZARDOUS MATERIAL IN THE MAIL.—No person may—

"(1) mail or cause to be mailed a hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed a hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which a hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

"(A) is represented, marked, certified, or sold by such person for use in the mailing of a hazardous material; and

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of a hazardous material.

"(c) CIVIL PENALTY.—

"(1) A person that knowingly violates this section or a regulation issued under this section is liable to the Postal Service for a civil penalty of at least $250 but not more than $100,000 for each vio-

lation, and for any clean-up costs and damages. A person acts knowingly when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

"(2) Knowledge by the person of the existence of a statutory provision, or a regulation or requirement prescribed by the Postal Service is not an element of an offense under this section.

"(3) A separate violation occurs for each day a hazardous material, mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section, is in the mail.

"(4) A separate violation occurs for each item containing a hazardous material that is mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section.

"(d) HEARING REQUIREMENT.—The Postal Service may find that a person has violated this section or a regulation issued under this section only after notice and an opportunity for a hearing. Under this section, the Postal Service shall impose a penalty and recover clean-up costs

and damages by giving the person written notice of the amount of the penalty, clean-up costs, and damages.

"(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Postal Service shall consider—

"(1) the nature, circumstances, extent, and gravity of the violation;

"(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

"(3) the impact on postal operations; and

"(4) other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) In accordance with section 409(d) of this title, a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, or damages assessed under this section. In such action, the validity, amount, and appropriateness of the civil penalty, clean-up costs, or damages shall not be subject to review.

"(2) The Postal Service may compromise the amount of a civil penalty, clean-up costs, or damages

assessed under this section before civil action is taken to collect the penalty, costs, or damages.

''(g) CIVIL JUDICIAL PENALTIES.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Postal Service in an administrative case under this section.

''(h) DEPOSITING AMOUNTS COLLECTED.—Amounts collected under this section shall be paid into the Postal Service Fund established by section 2003 of this title.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding the following:

''3018. Hazardous material; civil penalty.''.

SEC. 7306. REGISTRATION.

(a) IN GENERAL.—Section 5108 of title 49, United States Code, is amended—

(1) by striking ''class A or B explosive'' in subsection (a)(1)(B) and inserting ''Division 1.1, 1.2, or 1.3 explosive material''; and

(2) by revising subsection (a)(2)(B) to read as follows:

"(B) a person manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a packaging or packaging component represented as qualified for use in transporting a hazardous material in commerce.".

(b) CLARIFICATION OF TITLE 18 EXEMPTION.—Section 845(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) aspects of the transportation of explosive materials via railroad, water, highway, or air that pertain to safety, including security, and are regulated by the Department of Transportation or the Department of Homeland Security;".

SEC. 7307. SHIPPING PAPER RETENTION.

Section 5110 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "under subsection (b) of this section" and inserting "by regulation";

(2) by striking subsection (b) and redesignating subsections (c)–(e) as subsections (b)–(d); and

(3) by revising the first sentence in subsection (d), as redesignated, to read as follows: "The person

that provided the shipping paper and the carrier required to keep it under this section shall retain the paper, or an electronic image of it, for a period of 3 years after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.''.

SEC. 7308. PLANNING AND TRAINING GRANTS.

(a) Section 5116 of title 49, United States Code, is amended—

(1) in the second sentence of subsection (e), by striking ''of the State or tribe under subsections (a)(2)(A) and (b)(2)(A)'' and inserting ''received by the State or tribe under subsections (a)(1) and (b)(1)'';

(2) revising subsection (f) to read as follows:

''(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public-sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the Na-

tional Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.'';

(3) in subsection (g), by striking ''Government grant'' and inserting ''Federal financial assistance'';

(4) by revising subsection (i) to read as follows:

''(i) EMERGENCY PREPAREDNESS FUND.—The Secretary of the Treasury shall establish an Emergency Preparedness Fund account in the Treasury into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

''(1) to make grants under this section;

''(2) to monitor and provide technical assistance under subsection (f) of this section;

''(3) to publish and distribute the Emergency Response Guidebook;

''(4) to pay administrative costs of carrying out this section and sections 5108(g)(2) and 5115 of this title, except that not more than 10 percent of the amounts made available from the account in a fiscal year to carry out these sections may be used to pay those costs.''; and

"(5) by striking subsection (k).".

(b) Chapter 51 is amended by—

(1) revising the section heading for section 5116 to read "Planning and training grants; emergency preparedness fund"; and

(2) striking the item for section 5116 in the analysis of the chapter and inserting "5116. Planning and training grants; emergency preparedness fund.".

SEC. 7309. ENFORCEMENT.

Section 5122 of title 49, United States Code, is amended—

(1) in subsection (a), by revising the last sentence to read as follows: "The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123 of this chapter."; and

(2) in subparagraph (b)(1)(B), by striking "or ameliorate the" and inserting "or mitigate the".

SEC. 7310. PENALTIES.

(a) Section 5123 of title 49, United States Code, is amended—

(1) by revising subsection (a) to read as follows:

''(a) PENALTY.—

''(1) A person that knowingly violates this chapter, or a regulation, order, special permit, or approval issued under this chapter, is liable to the United States Government for a civil penalty of at least $250 but not more than $100,000 for each violation.

''(2) Knowledge by the person of the existence of a statutory provision, or a regulation or requirement prescribed by the Secretary is not an element of an offense under this section.

''(3) A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues''; and

(2) by redesignating subsections (b)–(g) as subsections (c)–(h) and inserting a new subsection (b) to read as follows:

''(b) KNOWING VIOLATIONS.—In this section, a person acts knowingly when—

''(1) the person has actual knowledge of the facts giving rise to the violation; or

"(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.";

(3) in subsection (c), as redesignated, by striking the first sentence and inserting the following: "The Secretary of Transportation may find that a person has violated this chapter, or a regulation, order, special permit or approval issued under this chapter, only after notice and an opportunity for a hearing.";

(4) by revising subsection (e), as redesignated, to read as follows:

"(e) CIVIL ACTIONS TO COLLECT.—The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty under this section and any accrued interest on that penalty calculated in the manner described under section 2705 of title 33. In such action, the validity, amount, and appropriateness of the civil penalty shall not be subject to review.".

(b) Section 5124 is revised to read as follows:

"§ 5124. Criminal penalty

"(a) GENERAL.—A person knowingly violating section 5104(b) of this title or willfully or recklessly violating this chapter or a regulation, order, special permit, or ap-

proval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this chapter, or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.

"(c) KNOWING VIOLATIONS.—In this section, a person acts knowingly when—

"(1) the person has actual knowledge of the facts giving rise to the violation; or

"(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

"(d) WILLFUL VIOLATIONS.—In this section, a person acts willfully when—

"(1) the person has knowledge of the facts giving rise to the violation; and

"(2) the person has knowledge that the conduct was unlawful.

"(e) RECKLESS VIOLATIONS.—In this section, a person acts recklessly when the person displays a deliberate

indifference or conscious disregard for the consequences of that person's conduct.

"(f) KNOWLEDGE OF REQUIREMENTS.—Knowledge by a person of the existence of a statutory provision, or a regulation or requirement prescribed by the Secretary, is not an element of an offense under this section.

"(g) SEPARATE VIOLATIONS.—A separate violation occurs for each day the violation, committed by a person who transports hazardous material or who causes hazardous material to be transported, continues.".

(c) Section 46312 is amended—

(1) in subparagraph (a), by striking "under this part" and inserting "under this part or under chapter 51 of this title"; and

(2) in subparagraph (b), by striking "by the Secretary" and inserting "by the Secretary under this part or under chapter 51 of this title".

(d) Section 3663, title 18 United States Code, is amended in subparagraph (a)(1)(A) by striking "or section 46312, 46502, or 46504 of title 49" and inserting "or section 5124, 46312, 46502, or 46504 of title 49.".

SEC. 7311 EMERGENCY WAIVER OF PREEMPTION.

"Section 5125 of title 49, United States Code, is amended by adding new subsections (h), (i), and (j) to read as follows:

"(h) EMERGENCY WAIVER OF PREEMPTION.—

"(1) The Secretary, upon a finding of good cause, may waive preemption on an expedited basis without notice and public procedure. Good cause exists when there is a possible threat that hazardous material being transported in commerce may be used in an attack on people or property, and notice and public procedure are impracticable or contrary to the public interest.

"(2) An emergency waiver of preemption shall remain in effect for no more than 6 months unless, prior to its expiration, the Secretary determines that a possible threat that hazardous material being transported in commerce may be used in an attack on people or property continues to exist.

"(3) An action of the Secretary under paragraphs (1) and (2) of this subsection shall be in writing and shall describe the standards and procedures for seeking reconsideration of the Secretary's action.

"(4) After taking action under paragraphs (1) or (2) of this subsection, the Secretary shall provide an opportunity for review of that action if a petition for reconsideration is filed within 20 calendar days

after the Secretary issues or extends an emergency waiver.

"(5) If a petition for reconsideration is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the emergency waiver will cease to be effective at the end of that period unless the Secretary determines, in writing, that a possible threat that hazardous material being transported in commerce may be used in an attack on people or property continues to exist.

"(i) INDEPENDENT APPLICATION OF EACH STANDARD.—Each preemption standard in subsections (b), (c)(1), (d), and (e) of this section and in section 5119(b) of this chapter is independent in its application to a requirement of any State, political subdivision of a State, or Indian tribe.

"(j) NONFEDERAL ENFORCEMENT STANDARDS.—This section does not apply to procedure, penalty, or required mental state or other standard used by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to transportation of a hazardous material.".

SEC. 7312. JUDICIAL REVIEW.

Chapter 51 of title 49, United States Code, is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

"§ 5127. Judicial review

''(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person suffering legal wrong or adversely affected or aggrieved by a final action of the Secretary of Transportation under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

''(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

''(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in the Administrative Procedure Act, 5 U.S.C. 551 et seq., to affirm or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings. Findings of fact by

the Secretary, if supported by substantial evidence, are conclusive.

"(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

"5127. Judicial review.
"5128. Authorization of appropriations.".

Subtitle D—Sanitary Food Transportation

SEC. 7401. SHORT TITLE.

This Subtitle may be cited as the "Sanitary Food Transportation Act of 2003".

SEC. 7402. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) UNSANITARY TRANSPORT DEEMED ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following new subsection:

"(i) If it is transported under conditions that are not in compliance with the sanitary transportation practices prescribed by the Secretary under section 416.".

(b) SANITARY TRANSPORTATION REQUIREMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following new section:

"§ 416. Sanitary transportation of food

"(a) SANITARY TRANSPORTATION PRACTICES.—The Secretary shall establish by regulation sanitary transportation practices which shippers, carriers, receivers, and other persons engaged in the transportation of food shall be required to follow to ensure that the food is not transported under conditions that may render it adulterated, including such practices as the Secretary may find appropriate relating to—

"(1) sanitation;

"(2) packaging, isolation, and other protective measures;

"(3) limitations on the use of vehicles;

"(4) information to be disclosed—

"(A) to a carrier by a person arranging for the transport of food, and

"(B) to a manufacturer or other persons arranging for the transport of food by a carrier

or other person furnishing a tank or bulk vehicle for the transport of food; and

"(5) recordkeeping.

"(b) LIST OF UNACCEPTABLE NONFOOD PRODUCTS.—The Secretary, by publication in the Federal Register, may establish and periodically amend—

"(1) a list of nonfood products that the Secretary determines may, if shipped in a tank or bulk vehicle, render adulterated food transported subsequently in such vehicle; and

"(2) a list of nonfood products that the Secretary determines may, if shipped in a motor or rail vehicle (other than a tank or bulk vehicle), render adulterated food transported simultaneously or subsequently in such vehicle.

"(c) WAIVER AUTHORITY.—

"(1) IN GENERAL.—The Secretary may waive all or part of this section, or any requirement under this section, with respect to any class of persons, of vehicles, of food, or of nonfood products, if the Secretary determines that such waiver—

"(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

"(B) will not be contrary to the public interest or this Act.

"(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

"(d) PREEMPTION.—

"(1) IN GENERAL.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, as to any food in interstate commerce, any authority or requirement concerning that transportation of food that is not identical to the requirement of this section.

"(2) EFFECTIVE DATE.—The provisions of this subsection apply only with respect to transportation occurring on or after the effective date of regulations prescribed under subsection (a).

"(e) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance upon request, to the extent resources are available, to the Secretary of Health and Human Services for the purposes of carrying out this section.

"(f) DEFINITIONS.—For purposes of the section:

"(1) The term 'transportation' means any movement of property in commerce by motor vehicle or rail vehicle.

"(2) The term 'tank or bulk vehicle' includes any vehicle in which food is shipped in bulk and in which the food comes directly into contact with the vehicle, including tank trucks, hopper trucks, rail tank cars, hopper cars, cargo tanks, portable tanks, freight containers, or hopper bins.".

(c) INSPECTION OF TRANSPORTATION RECORDS.—

(1) REQUIREMENT.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by inserting after section 703 the following new section:

"§ 703A. Food transportation records

"Shippers, carriers by motor vehicle or rail vehicle, and other persons subject to section 416 shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires them to make or retain under section 416(a)(5) of this Act.".

(2) CONFORMING AMENDMENT.—Section 703 of the Act (21 U.S.C. 373) is amended by striking "in the usual course of business as carriers." and in-

serting ''in the usual course of business as carriers, unless otherwise explicitly provided.''.

(d) PROHIBITED ACTS.—

(1) RECORDS INSPECTION.—Section 301(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended—

(A) by striking ''or 703'' and inserting '', 703, or 703A''; and

(B) by inserting ''416,'' before ''504''.

(2) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Act (21 U.S.C. 331) is further amended by adding at the end the following new subsection:

''(gg) The failure, by a shipper, carrier, receiver, or any other person engaged in the transportation of food, to comply with the sanitary transportation practices prescribed by the Secretary under section 416.''.

SEC. 7403. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

Chapter 57 of title 49, relating to sanitary food transportation is revised to read as follows:

''CHAPTER 57—SANITARY FOOD TRANSPORTATION

''Sec.
''5701. Food transportation safety inspections.

''§ 5701. Food transportation safety inspections

''(a) INSPECTION PROCEDURES.—

"(1) The Secretary of Transportation, in consultation with the Secretaries of Health and Human Services and Agriculture, shall establish procedures to be used in performing transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of food that may violate regulations issued under section 416 of title 21, United States Code, and of meat and poultry products subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672) and section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a), and shall train personnel of the Department of Transportation in the appropriate use of such procedures.

"(2) The procedures established under paragraph (1) of this subsection shall apply, at a minimum, to the Department of Transportation personnel who perform commercial motor vehicle and railroad safety inspections.

"(b) NOTIFICATION OF SECRETARIES OF HEALTH AND HUMAN SERVICES AND AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential

food contamination or adulteration of a food identified during transportation safety inspections.

"(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) of this section may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104 of this title.".

SEC. 7404. EFFECTIVE DATE OF THE SUBTITLE.

Unless otherwise specified, the provisions of this title are effective October 1, 2003.

Subtitle E—Sport Fishing and Boating Safety

SEC. 7501. SPORT FISH RESTORATION ACCOUNT AMENDMENTS.

(a) IN GENERAL.—Section 4 of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes" (August 9, 1950)(16 U.S.C. 777c) is amended—

(1) in subsection (b),

(A) by striking "2003" each place it appears and inserting "2009"; and

(B) by striking ''Secretary of Transportation'' each place it appears and inserting ''Secretary of Homeland Security''; and

(2) in subsection (c)(5), by striking ''fiscal year 2003'' and inserting ''fiscal years 2003 through 2009''.

(b) CLEAN MARINA INITIATIVES.—To further enhance the natural environment, Federal agencies administering programs funded under the Aquatic Resources Trust Fund should promote, to the extent practicable, ''Clean Marina Initiatives'' in each of the following programs:

(1) Clean Vessel Act ''Pumpout'' Program.

(2) Boating Infrastructure Grant Program.

(3) National Outreach and Communications Program.

(4) Recreational Boating Access Facilities.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

SEC. 8101. DISCRETIONARY SPENDING CATEGORIES.

(a) DEFINITION OF HIGHWAY CATEGORY AND MASS TRANSIT CATEGORY.—

(1) Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(A) striking ''Transportation Equity Act for the 21st Century'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003''; and

(B) adding after item (iv) the following new clauses:

''(v) 69–8158–0–7–401 (Motor Carrier Safety Grants).

''(vi) 69–8159–0–7–401 (Motor Carrier Safety Operations and Programs).''.

(2) Section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

''(C) The term 'mass transit category' refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 or for which appropriations are provided pursuant to authorizations contained in that Act:

"(i) 69–1120–0–1–401 (Administrative Expenses).

"(ii) 69–1134–0–1–401 (Capital Investment Grants).

"(iii) 69–8191–0–7–401 (Discretionary Grants).

"(iv) 69–1129–0–1–401 (Formula Grants).

"(v) 69–8303–0–7–401 (Formula Grants and Research).

"(vi) 69–1127–0–1–401 (Interstate Transfer Grants—Transit).

"(vii) 69–1125–0–1–401 (Job Access and Reverse Commute).

"(viii) 69–1122–0–1–401 (Miscellaneous Expired Accounts).

"(ix) 69–1139–0–1–401 (Major Capital Investment Grants).

"(x) 69–1121–0–1–401 (Research, Training and Human Resources).

"(xi) 69–8350–0–7–401 (Trust Fund Share of Expenses).

"(xii) 69–1137–0–1–401 (Transit Planning and Research).

"(xiii) 69–1136–0–1–401 (University Transportation Research).

"(xiv) 69–1128–0–1–401 (Washington Metropolitan Area Transit Authority).".

(b) CONTINUATION OF SEPARATE CATEGORIES.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new paragraphs:

"(8) with respect to fiscal year 2004—

"(A) for the highway category: $29,990,000,000 in outlays; and

"(B) for the mass transit category: $6,909,000,000 in outlays.

"(9) with respect to fiscal year 2005—

"(A) for the highway category: $30,589,000,000 in outlays; and

"(B) for the mass transit category: $6,462,000,000 in outlays.

"(10) with respect to fiscal year 2006—

"(A) for the highway category: $31,249,000,000 in outlays; and

"(B) for the mass transit category: $6,070,000,000 in outlays.

"(11) with respect to fiscal year 2007—

"(A) for the highway category: $32,402,000,000 in outlays; and

"(B) for the mass transit category: $5,843,000,000 in outlays.

"(12) with respect to fiscal year 2008—

"(A) for the highway category: $33,358,000,000 in outlays; and

"(B) for the mass transit category: $6,374,000,000 in outlays.

"(13) with respect to fiscal year 2009—

"(A) for the highway category: $34,109,000,000 in outlays; and

"(B) for the mass transit category: $6,470,000,000 in outlays.".

(c) HIGHWAY FUNDING REVENUE ALIGNMENT.—Section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is amended—

(1) in clause (i),

(A) by inserting "for fiscal year 2006, 2007, 2008, or 2009" after "submits the budget";

(B) by inserting "the obligation limitation and outlay limit for" after "adjustments to";

(C) by striking ''provided in clause (ii)(I)(cc).'' and substituting ''follows:''; and

(D) by inserting the following at the end:

''(I) OMB shall calculate the change in the obligation limitation for the highway category for the budget year by taking the actual level of highway receipts for the year before the current year and subtracting the sum of the estimated level of highway receipts in clause (iii) plus any amount previously calculated under clause (ii) for that year.

''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the obligation limitation set forth in section 8102(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After

making the calculation under the preceding sentence, OMB shall adjust the obligation limitation set forth in that section for the budget year by adding the amount calculated under subclause (I).'';

(2) by striking clause (ii) and substituting the following:

''(ii) When the President submits the supplementary budget estimates for fiscal year 2006, 2007, 2008, or 2009, under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the highway category for the budget year and each outyear as follows:

''(I) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of highway receipts in clause (iii) for that year.

''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the amount of ob-

ligations set forth in section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year by adding the amount calculated under subclause (I).''; and

(3) by inserting the following at the end:

''(iii) The estimated level of highway receipts for the purposes of this subparagraph are—

''(I) for fiscal year 2004, $30,119,000,000;

''(II) for fiscal year 2005, $31,109,000,000;

''(III) for fiscal year 2006, $32,191,000,000;

"(IV) for fiscal year 2007, $33,146,000,000;

"(V) for fiscal year 2008, $34,018,000,000; and

"(VI) for fiscal year 2009, $34,844,000,000.

"(iv) In this subparagraph, the term "highway receipts" means the governmental receipts credited to the highway account of the Highway Trust Fund.".

(d) TRANSIT FUNDING REVENUE ALIGNMENT.—Section 251(b)(1)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(C)) is amended to read as follows:

"(C) ADJUSTMENT TO ALIGN MASS TRANSIT SPENDING WITH REVENUES.—

"(i) When the President submits the budget for fiscal year 2006, 2007, 2008, or 2009, under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to the obligation limitation and outlay limit for the mass transit category for the budget year and each outyear as follows:

"(I) OMB shall calculate the change in the obligation limitation for the mass transit category for the budget year by taking the actual level of mass transit receipts for the year before the current year and subtract the sum of the estimated level of mass transit receipts in clause (iii) plus any amount previously calculated under clause (ii) for that year.

"(II) OMB shall take the amount calculated under subclause (I) and add that amount to the amount of obligation limitation set forth in section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the mass transit category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the obligation limi-

tation set forth in that section for the budget year by adding the amount calculated under subclause (I).

"(ii) When the President submits the supplementary budget estimates for fiscal year 2006, 2007, 2008, or 2009, under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the mass transit category for the budget year and each outyear as follows:

"(I) OMB shall take the current estimate of mass transit receipts for the current year and subtract the estimated level of mass transit receipts in clause (iii) for that year.

"(II) OMB shall take the amount calculated under subclause (I) and add that amount to the obligation limitation set forth in section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the mass transit category for the budget year, and calculate the

outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the obligation limitation set forth in that section for the budget year by adding the amount calculated under subclause (I).

''(iii) The estimated level of mass transit receipts for the purposes of this subparagraph are—

''(I) for fiscal year 2004, $4,793,000,000;

''(II) for fiscal year 2005, $4,926,000,000;

''(III) for fiscal year 2006, $5,050,000,000;

''(IV) for fiscal year 2007, $5,164,000,000;

''(V) for fiscal year 2008, $5,270,000,000; and

''(VI) for fiscal year 2009, $5,377,000,000.

"(iv) In this subparagraph, the term "mass transit receipts" means the governmental receipts credited to the Mass Transit Account of the Highway Trust Fund.".

(e) ADDITIONAL ADJUSTMENTS.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is further amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(2) in subparagraph (E)(i) as redesignated—

(A) by striking "1999" and substituting "2005;

(B) by striking "2000" and substituting "2006";

(C) by striking "2003" and substituting "2009; and

(D) by striking "section 8103 of the Transportation Equity Act for the 21st Century" and substituting "section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003";

(3) in subparagraph (E)(ii) as redesignated—

(A) by striking "2000, 2001, 2002, or 2003" and substituting "2006, 2007, 2008, and 2009; and

(B) by striking ''by subparagraphs (B) and (C)'' and substituting ''made by subparagraphs (B), (C), and (D)'';

(4) in subparagraph (F) as redesignated, by striking ''(B) and (C)'' and substituting ''(B), (C), and (D)''; and

(5) by inserting the following after subparagraph (C):

''(D) In addition to the adjustments required by subparagraphs (B) and (C), when the President submits the budget for fiscal year 2006, 2007, 2008, or 2009, under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

''(i) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (E), as adjusted, using current technical assumptions; minus

''(ii) the outlays for the applicable category set forth in the subparagraph (E) estimates, as adjusted.''.

(f) ENFORCEMENT OF GUARANTEE.—Rule XXI of the Rules of the House of Representatives is amended by striking ''section 8103 of the Transportation Equity Act for the 21st Century'' in clause 3 and substituting ''section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003''.

SEC. 8102. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the highway category is—

(1) for fiscal year 2004, $30,280,000,000;

(2) for fiscal year 2005, $31,270,000,000;

(3) for fiscal year 2006, $32,352,000,000;

(4) for fiscal year 2007, $33,307,000,000;

(5) for fiscal year 2008, $34,179,000,000; and

(6) for fiscal year 2009, $35,005,000,000.

(b) MASS TRANSIT CATEGORY.—

(1) For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—

(A) for fiscal year 2004, $5,936,000,000;

(B) for fiscal year 2005, $6,054,720,000;

(C) for fiscal year 2006, $6,180,659,000;

(D) for fiscal year 2007, $6,319,723,000;

(E) for fiscal year 2008, $6,475,820,000; and

(F) for fiscal year 2009, $6,633,183,000.

(2) For purposes of this subsection, the term ''obligation limitations'' means the sum of budget authority and obligation limitations.

SEC. 8103. EFFECTIVENESS OF TITLE.

This title, and the amendments made by this title, become effective on the day that section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 comes into effect after the enactment of this Act.

TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

SEC. 9001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Surface Transportation Revenue Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 9002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUSTFUND.

(a) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2011":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(G) Section 4481(e) (relating to period tax in effect).

(H) Section 4482(c)(4) (relating to taxable period).

(I) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(2) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking ''2005'' each place it appears and inserting ''2011'', and

(B) by striking ''2006'' each place it appears and inserting ''2012''.

(b) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking ''2005'' and inserting ''2011'':

(1) Section 4221(a) (relating to certain tax-free sales).

(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

(c) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—Subsections (b), (c)(2), and (c)(3) of section 9503 (relating to the Highway Trust Fund) are amended—

(1) by striking ''2005'' each place it appears and inserting ''2011'', and

(2) by striking ''2006'' each place it appears and inserting ''2012''.

(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUND.—

(1) HIGHWAY ACCOUNT.—Section 9503 is amended by striking subsection (c)(1) and inserting the following:

''(1) FEDERAL-AID HIGHWAY AND SAFETY PROGRAMS.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures authorized by law to be paid out of the Highway Trust Fund before October 1, 2011, to meet those obligations of the United States heretofore or hereafter incurred under the following Acts, as in effect on the date of enactment of the last Act listed:

''(A) The Highway Revenue Act of 1956.

''(B) The Surface Transportation Assistance Act of 1982.

''(C) The Surface Transportation and Uniform Relocation Assistance Act of 1987.

''(D) The Intermodal Surface Transportation Efficiency Act of 1991.

''(E) The Transportation Equity Act for the 21st Century.

''(F) The Motor Carrier Safety Improvement Act of 1999.

"(G) The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.".

(2) MASS TRANSIT ACCOUNT.—Section 9503(e)(3) is amended to read as follows:

"(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital or capital-related expenditures before October 1, 2011 (including capital expenditures for new projects) in accordance with the following Acts and provisions of law, as in effect on the date of enactment of the last Act listed:

"(A) Section 5338(a)(1) or (b)(1) of title 49.

"(B) The Intermodal Surface Transportation Efficiency Act of 1991.

"(C) The Transportation Equity Act for the 21st Century.

"(D) The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.".

SEC. 9003. EXTENSION OF TAX BENEFITS FOR ALCOHOL FUELS.

(a) EXTENSION OF TAX BENEFITS.—

(1) EXTENSION.—The following provisions are each amended by striking ''2007'' each place it appears and inserting ''2014'':

(A) Section 4041(b)(2)(C)(ii) and (D) (relating to termination of reduction in tax for qualified methanol and ethanol fuel).

(B) Section 4041(k)(3) (relating to termination of rates relating to fuels containing alcohol).

(C) Section 4081(c)(8) (relating to termination of special rate for taxable fuels mixed with alcohol).

(D) Section 4091(c)(5) (relating to termination of reduced rate of tax for aviation fuel in alcohol mixture, etc.).

(E) Section 40(h) (relating to termination of credit for ethanol blenders).

(2) EXTENSION OF REFUND AUTHORITY.—Paragraph (4) of section 6427(f) (relating to refund for gasoline, diesel fuel, and aviation fuel used to produce certain alcohol fuels), as amended by the Taxpayer Relief Act of 1997, is amended by striking ''2007'' and inserting ''2012''.

(3) CREDIT FOR ALCOHOL USED AS A FUEL.—Paragraph (1) of section 40(e) (relating to termi-

nation of credit for alcohol used as a fuel) is amended—

(A) by striking ''December 31, 2007'' in subparagraph (A) and inserting ''December 31, 2014'', and

(B) by striking ''January 1, 2008'' and inserting ''January 1, 2015''.

(4) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking ''10/1/2007'' each place it appears and inserting ''10/1/2014''.

(b) CONFORMING AMENDMENTS.—

(1) AMOUNT OF REDUCED CREDIT FOR ETHANOL BLENDERS.—The table in paragraph (2) of 40(h) is amended by striking ''2005, 2006, or 2007'' and inserting ''2005 through 2014''.

(2) APPLICABLE BLENDER RATE FOR EXEMPTED QUALIFIED METHANOL AND ETHANOL FUEL.—Section 4041(b)(2)(C) is amended by striking ''2001'' and inserting ''2008''.

SEC. 9004. PRIVATE ACTIVITY BONDS FOR SURFACE TRANSPORTATION INFRASTRUCTURE.

(a) EXEMPT FACILITY BONDS.—Section 142 is amended—

(1) in subsection (a) by—

(A) striking ''or'' at the end of paragraph (12);

(B) striking the period at the end of paragraph (13) and inserting a comma; and

(C) adding after paragraph (13) the following new paragraphs:

''(14) highway facilities, or

''(15) surface freight transfer facilities.''; and

(2) by adding new subsections (l), (m), and (n) at the end, as follows:

''(l) HIGHWAY FACILITIES.—For purposes of subsection (a)(14), the term 'highway facilities' means—

''(1) a surface transportation project eligible for Federal assistance under title 23, United States Code (as in effect on the date of enactment of this subsection), or

''(2) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible.

''(m) SURFACE FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(15), the term ''surface

freight transfer facilities'' means facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers).

''(n) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING FOR HIGHWAY FACILITIES AND SURFACE FREIGHT TRANSFER FACILITIES.

''(1) IN GENERAL.—The aggregate face amount of bonds issued pursuant to subsections (a)(14) (relating to highway facilities) and (a)(15) (relating to surface freight transfer facilities) shall not exceed $15,000,000,000, determined without regard to any bond the proceeds of which are used exclusively to refund a bond issued pursuant to either of such subsections (or a bond which is a part of a series of refundings of a bond so issued) if the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

''(2) ALLOCATION.—The Secretary of Transportation shall allocate the amount described in paragraph (1) among eligible projects satisfying the requirements of subsection (a)(14) or (a)(15).''.

(b) VOLUME CAP, EXCEPTION FOR CERTAIN BONDS.—Section 146(g) is amended in paragraph (3), by—

(1) striking ''(12), or (13)'' and inserting ''(12), (13), (14), or (15)''; and

(2) striking ''and qualified public educational facilities'' and inserting ''qualified public educational facilities, highway facilities, and surface freight transfer facilities''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 9005. ALL ALCOHOL FUEL TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding ''or'' at the end of subparagraph (C);

(2) in subparagraph (D)(iii), by striking '', and'' after ''2005'' and inserting a period; and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

SEC. 9006. TRANSFER FROM HIGHWAY TRUST FUND TO BOAT SAFETY ACCOUNT.

(a) IN GENERAL.—Section 9503(c)(4)(A) is amended by striking ''2005'' and inserting ''2011''.

(b) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(1) by striking ''2003'' and inserting ''2009'', and

(2) by striking ''2004'' each place it appears and inserting ''2010''.

(c) TECHNICAL CORRECTION TO HOMELAND SECURITY ACT.—Section 1511(e)(2) of the Homeland Security Act of 2002 (Public Law No. 107–296) is amended by striking ''and to any funds provided to the Coast Guard from the Aquatic Resources Trust Fund of the Highway Trust Fund for boating safety programs'', and inserting ''and any funds provided to the Coast Guard from the Highway Trust Fund and transferred into the Boat Safety Account of the Aquatic Resources Trust Fund for boating safety programs.''.

(d) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Section 9504(c) is amended by striking ''2003'' and inserting ''2009''.

SEC. 9007. EXTENSION OF SMALL-ENGINE FUEL TAXES TRANSFERRED TO SPORT FISH RESTORATION ACCOUNT.

Section 9503(c)(5)(A) is amended by striking the year ''2005'' and inserting ''2011''.

SEC. 9008. TECHNICAL CORRECTION.

The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

SEC. 9009. TRANSFER BY REGISTERED PIPELINE, VESSEL, OR BARGE REQUIRED FOR FUEL TAX EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES; DISPLAY OF REGISTRATION REQUIREMENT.

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended by inserting '', bulk carrier,'' after ''the taxable fuel''.

(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

(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:

"§ 6717. Failure to register under section 4101

"(a) FAILURE TO REGISTER.—Any person who fails to register with the Secretary as required by regulations under section 4101 shall pay a penalty of $1,000 for each day during the period of such failure in which such person engages in an activity for which registration is required.

"(b) JOINT AND SEVERAL LIABILITY.—

"(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

"(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.".

(2) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"6717. Failure to register under section 4101.".

(c) DISPLAY OF REGISTRATION.—

(1) IN GENERAL.—Section 4101 (relating to registration and bond) is amended by adding at the end the following new subsection:

''(e) DISPLAY OF REGISTRATION.—Every vessel operator required by the Secretary to register under this section with respect to the tax imposed by section 4081 shall display proof of such registration in such manner as the Secretary may prescribe.''.

(2) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(A) 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:

''§ 6718. Failure to display proof of registration by vessels or barges

''(a) FAILURE TO DISPLAY PROOF OF REGISTRATION.—Every vessel operator who fails to display proof of registration when required to do so pursuant to section 4101(e) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person or operator, subsection (a) shall be applied by increasing the amount

imposed in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).''.

(B) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''6718. Failure to display proof of registration by vessels or barges.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 9010. RETURNS FILED ELECTRONICALLY.

(a) INFORMATION REPORTING.—Section 4101(d) (relating to information reporting) is amended to read as follows:

''(d) INFORMATION REPORTING.—

''(1) The Secretary may require—

''(A) information reporting by any person registered under this section, and

''(B) information reporting by such other persons as the Secretary deems necessary to carry out this part.

''(2) Information reporting required by the Secretary under paragraph (1) of this subsection shall

be by electronic format for any person having at least 25 reportable transactions in a month.''.

(b) USE TAX ON CERTAIN VEHICLES.—Section 4481(b) is amended by adding the following new sentence at the end: ''Any return of tax imposed by this section reporting at least 25 vehicles shall be filed by electronic format.''.

(c) ELECTRONIC FORMAT.—The Secretary of the Treasury shall describe the electronic formats for filing under subsections (a) and (b) not later than 90 days after the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns due after the date the Secretary of the Treasury describes the electronic format for filing under subsection (a) and the amendment made by subsection (b) shall apply to returns due after the date the Secretary of the Treasury describes the electronic format for filing under subsection (b).

SEC. 9011. CIVIL PENALTY FOR REFUSAL OF ENTRY.

(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 of payment of tax) shall pay a penalty of $50. With

respect to any vehicle, only one penalty shall be imposed by this section during any calendar month.

"(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, agency, or instrumentality, subsection (a) shall be applied by increasing the amount imposed in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person, agency, or instrumentality. ".

(2) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

"6719. Failure to display proof of tax payment decal.".

(c) ELIMINATION OF PRIVILEGE TO PAY HIGHWAY USE TAX IN INSTALLMENTS.—

(1) REPEAL.—Section 6156 (relating to the privilege to pay in installments the tax imposed under section 4481 of such Code on use of highway motor vehicles) is repealed.

(2) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

SEC. 9013. ADDITIONAL RULES REGARDING INSPECTIONS OF RECORDS.

(a) PROVISION OF COPIES OF RECORDS.—Section 4102 (relating to inspection of records by local officers) is amended by inserting ", and copies shall be furnished upon request of," after "inspection by".

(b) INSPECTION BY OTHER ENFORCEMENT AGENCIES.—Section 4102 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by inserting "; such records and information on returns required to be filed with respect to taxes under section 4481 shall be open to inspection by officers of any State agency charged with the registration and licensing of vehicles described in such section and officers of any other Federal or State agency charged with the enforcement of Federal or State law regarding taxable fuels or criminal activities regarding taxable fuels" after "section 4083)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

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