

108TH CONGRESS
1ST SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “**[Safe, Accountable, Flexible, and Efficient Transpor-**
6 **tation Equity Act of 2003]**”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. General definitions.
- Sec. 3. Definitions for title 23.

TITLE I—FEDERAL-AID HIGHWAYS

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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. Future of federal-aid system.
- Sec. 1203. Freight transportation gateways; freight intermodal connections.

Subtitle C—Finance

- Sec. 1301. Federal share.
- Sec. 1302. Transfer of highway and transit funds.
- Sec. 1303. Transportation infrastructure finance and innovation act amendments.
- Sec. 1304. Facilitation of international registration plans and international fuel tax agreements.
- Sec. 1305. National commission on future revenue sources to support the highway trust fund.
- Sec. 1306. Highway use tax evasion projects.

Subtitle D—Safety

- Sec. 1401. Highway safety improvement program.
- Sec. 1402. Operation lifesaver.
- Sec. 1403. License suspension.
- Sec. 1404. Bus axle weight exemption.
- Sec. 1405. Safe routes to schools program.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

- Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.
- Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.
- Sec. 1503. Integration of natural resource concerns into transportation project planning.
- Sec. 1504. Public involvement in transportation planning and projects.
- Sec. 1505. Project mitigation.

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

- Sec. 1511. Transportation project development process.
- Sec. 1512. Assumption of responsibility for categorical exclusions.

CHAPTER 3—MISCELLANEOUS

- Sec. 1521. Critical real property acquisition.
- Sec. 1522. Planning capacity building initiative.

Subtitle F—Environment

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- Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.
- Sec. 1602. Clarification regarding environmental impact Statements prepared by State and local transportation agencies.
- Sec. 1603.
- Sec. 1604. National scenic byways program.
- Sec. 1605. Recreational trails program.
- Sec. 1606. Exemption of interstate system.
- Sec. 1607. Standards.
- Sec. 1608. Use of high occupancy vehicle lanes.
- Sec. 1609. Bicycle transportation and pedestrian walkways.
- Sec. 1610. Idling reduction facilities in interstate rights-of-way.
- Sec. 1611. Toll programs.
- Sec. 1612. Federal reference method.
- Sec. 1613. Addition of particulate matter areas to cmaq.
- Sec. 1614. Addition to eligible projects.
- Sec. 1615. Improved interagency consultation.
- Sec. 1616. Evaluation and assessment of cmaq projects.
- Sec. 1617. Synchronized planning and conformity timelines, requirements, and horizon.
- Sec. 1618. Transition to new air quality standards.
- Sec. 1619. Reduced barriers to air quality improvements.
- Sec. 1620. Conforming amendments.
- Sec. 1621. Air quality monitoring data influenced by exceptional events.

Subtitle G—Operations

- Sec. 1701. Transportation systems management and operations.
- Sec. 1702. Real-time system management information program.

Subtitle H—Federal-Aid Stewardship

- Sec. 1801. Future interstate system routes.
- Sec. 1802. Stewardship and oversight.
- Sec. 1803. Design-build contracting.
- Sec. 1804. Program efficiencies—finance.
- Sec. 1805. Set-asides for interstate discretionary projects.
- Sec. 1806. Federal lands highways program.
- Sec. 1807. Emergency relief.
- Sec. 1808. Highway bridge program.
- Sec. 1809. Appalachian development highway system.
- Sec. 1810. Assumption of responsibility for transportation enhancements, recreational trails, and transportation, community, and system preservation program projects.
- Sec. 1811. Multistate corridor program.
- Sec. 1812. Border planning, operations, and technology program.
- Sec. 1813. Puerto Rico highway program.
- Sec. 1814. National historic covered bridge preservation.
- Sec. 1815. Surface transportation system performance pilot program.
- Sec. 1816. Transportation and community and system preservation pilot program.
- Sec. 1817. Tribal-State road maintenance agreements.
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- Sec. 1820. Donations and credits.
- Sec. 1821. Disadvantaged business enterprises.

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Subtitle I—Technical Corrections

- Sec. 1901. Repeal or update of obsolete text.
- Sec. 1902. Clarification of date.
- Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
- Sec. 1904. Inclusion of buy america requirements in title 23.
- Sec. 1905. Technical amendments to nondiscrimination section.

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

- Sec. 2001. Authorization of appropriations.
- Sec. 2002. Obligation ceiling.
- Sec. 2003. Notice.

Subtitle B—Research and Technology

- Sec. 2101. Research and technology program.
- Sec. 2102. Study of data collection and statistical analysis efforts.
- Sec. 2103. Advanced vehicle technologies program.
- Sec. 2104. Centers for surface transportation excellence.

Subtitle C—Intelligent Transportation System Research

- Sec. 2201. Intelligent transportation system research and technical assistance program.

Subtitle D—Clean Hydrogen Fuel Cell Research for Transportation

- Sec. 2301. Clean hydrogen fuel cell research for transportation.

TITLE III—INTERMODAL PASSENGER FACILITIES

- Sec. 3002. Intermodal passenger facilities.

TITLE IV—FEDERAL AID IN SPORT FISH RESTORATION ACT
AMENDMENTS

- Sec. 4101. Amendment of Federal aid in fish restoration act.
- Sec. 4102. Authorization of appropriations.
- Sec. 4103. Division of annual appropriations.
- Sec. 4104. Maintenance of projects.
- Sec. 4105. Boating infrastructure.
- Sec. 4106. Requirements and restrictions concerning use of amounts for expenses for administration.
- Sec. 4107. Payments of funds to and cooperation with puerto rico, the district of columbia, guam, american samoa, commonwealth of the northern marina islands, and virgin islands.
- Sec. 4108. Multistate conservation grant program.

1 SEC. 2. GENERAL DEFINITIONS.

2 In this Act:

1 (1) DEPARTMENT.—The term “Department”
2 means the Department of Transportation.

3 (2) SECRETARY.—The term “Secretary” means
4 the Secretary of Transportation.

5 **SEC. 3. DEFINITIONS FOR TITLE 23.**

6 Section 101 of title 23, United States Code, is
7 amended by striking subsection (a) and inserting the fol-
8 lowing:

9 “(a) DEFINITIONS.—In this title:

10 “(1) APPORTIONMENT.—The term ‘apportion-
11 ment’ includes an unexpended apportionment made
12 under a law enacted before the date of enactment of
13 the **【Safe, Accountable, Flexible, and Efficient**
14 **Transportation Equity Act of 2003】**.

15 “(2) CARPOOL PROJECT.—

16 “(A) IN GENERAL.—The term ‘carpool
17 project’ means any project to encourage the use
18 of carpools and vanpools.

19 “(B) INCLUSIONS.—The term ‘carpool
20 project’ includes a project—

21 “(i) to provide carpooling opportuni-
22 ties to the elderly and individuals with dis-
23 abilities;

1 “(ii) to develop and implement a sys-
2 tem for locating potential riders and in-
3 forming the riders of carpool opportunities;

4 “(iii) to acquire vehicles for carpool
5 use;

6 “(iv) to designate highway lanes as
7 preferential carpool highway lanes;

8 “(v) to provide carpool-related traffic
9 control devices; and

10 “(vi) to designate facilities for use for
11 preferential parking for carpools.

12 “(3) CLASSIFIED FOREST ROAD.—

13 “(A) IN GENERAL.—The term ‘classified
14 forest road’ means a forest road that the Forest
15 Service determines to be needed for long-term
16 motor vehicle access.

17 “(B) INCLUSIONS.—The term ‘classified
18 forest road’ includes—

19 “(i) a State road;

20 “(ii) a county road;

21 “(iii) a privately-owned road;

22 “(iv) a National Forest System road;

23 and

24 “(v) any other road authorized by the
25 Forest Service.

1 “(4) CONSTRUCTION.—

2 “(A) IN GENERAL.—The term ‘construc-
3 tion’ means the supervision, inspection, and ac-
4 tual building of, and incurring of all costs inci-
5 dental to the construction or reconstruction of
6 a highway, including bond costs and other costs
7 relating to the issuance in accordance with sec-
8 tion 122 of bonds or other debt financing in-
9 struments and costs incurred by the State in
10 performing Federal-aid project related audits
11 that directly benefit the Federal-aid highway
12 program.

13 “(B) INCLUSIONS.—The term ‘construc-
14 tion’ includes—

15 “(i) locating, surveying, and mapping
16 (including the establishment of temporary
17 and permanent geodetic markers in accord-
18 ance with specifications of the National
19 Oceanic and Atmospheric Administration);

20 “(ii) resurfacing, restoration, and re-
21 habilitation;

22 “(iii) acquisition of rights-of-way;

23 “(iv) relocation assistance, acquisition
24 of replacement housing sites, and acquisi-

1 tion and rehabilitation, relocation, and con-
2 struction of replacement housing;

3 “ (v) elimination of hazards of railway
4 grade crossings;

5 “ (vi) elimination of roadside obstacles;

6 “ (vii) improvements that directly fa-
7 cilitate and control traffic flow, such as—

8 “ (I) grade separation of intersec-
9 tions;

10 “ (II) widening of lanes;

11 “ (III) channelization of traffic;

12 “ (IV) traffic control systems; and

13 “ (V) passenger loading and un-
14 loading areas;

15 “ (viii) capital improvements that di-
16 rectly facilitate an effective vehicle weight
17 enforcement program, such as—

18 “ (I) scales (fixed and portable);

19 “ (II) scale pits;

20 “ (III) scale installation; and

21 “ (IV) scale houses; and

22 “ (ix) improvements directly related to
23 homeland security for detection, prepared-
24 ness, prevention, response, and recovery.

25 “(5) COUNTY.—The term ‘county’ includes—

1 “(A) a corresponding unit of government
2 under any other name in a State that does not
3 have county organizations; and

4 “(B) in those States in which the county
5 government does not have jurisdiction over
6 highways, any local government unit vested
7 with jurisdiction over local highways.

8 “(6) FEDERAL-AID HIGHWAY.—

9 “(A) IN GENERAL.—The term ‘Federal-aid
10 highway’ means a highway eligible for assist-
11 ance under this chapter.

12 “(B) EXCLUSIONS.—The term ‘Federal-aid
13 highway’ does not include a highway classified
14 as a local road or rural minor collector.

15 “(7) FEDERAL-AID SYSTEM.—The term ‘Fed-
16 eral-aid system’ means any of the Federal-aid high-
17 way systems described in section 103.

18 “(8) FEDERAL LANDS HIGHWAY.—The term
19 ‘Federal lands highway’ means—

20 “(A) a forest highway;

21 “(B) a recreation road;

22 “(C) a public Forest Service road;

23 “(D) a park road;

24 “(E) a parkway;

25 “(F) a refuge road;

1 “(G) an Indian reservation road that is a
2 public road; and

3 “(H) a public lands highway.

4 “(9) FOREST HIGHWAY.—The term ‘forest
5 highway’ means a forest road that is—

6 “(A) under the jurisdiction of, and main-
7 tained by, a public authority; and

8 “(B) is open to public travel.

9 “(10) FOREST ROAD OR TRAIL.—

10 “(A) IN GENERAL.—The term ‘forest road
11 or trail’ means a road or trail wholly or partly
12 within, or adjacent to, and serving National
13 Forest System land that is necessary for the
14 protection, administration, use, and develop-
15 ment of the resources of that land.

16 “(B) INCLUSIONS.—The term ‘forest road
17 or trail’ includes—

18 “(i) a classified forest road;

19 “(ii) an unclassified forest road;

20 “(iii) a temporary forest road; and

21 “(iv) a public forest service road.

22 “(11) FREIGHT TRANSPORTATION GATEWAY.—

23 “(A) IN GENERAL.—The term ‘freight
24 transportation gateway’ means a nationally or
25 regionally significant transportation port of

1 entry or hub for domestic and global trade or
2 military mobilization.

3 “(B) INCLUSIONS.—The term ‘freight
4 transportation gateway’ includes freight inter-
5 modal and Strategic Highway Network connec-
6 tions that provide access to and from a port or
7 hub described in subparagraph (A).

8 “(12) HIGHWAY.—The term ‘highway’
9 includes—

10 “(A) a road, street, and parkway;

11 “(B) a right-of-way, bridge, railroad-high-
12 way crossing, tunnel, drainage structure, sign,
13 guardrail, and protective structure, in connec-
14 tion with a highway; and

15 “(C) a portion of any interstate or inter-
16 national bridge or tunnel (including the ap-
17 proaches to the interstate or international
18 bridge or tunnel, and such facilities as may be
19 required by the United States Customs Service
20 and the Bureau of Citizenship and Immigration
21 Services in connection with the operation of an
22 international bridge or tunnel), the cost of
23 which is assumed by a State transportation de-
24 partment.

25 “(13) INDIAN RESERVATION ROAD.—

1 “(A) IN GENERAL.—The term ‘Indian res-
2 ervation road’ means a public road that is lo-
3 cated within or provides access to an area de-
4 scribed in subparagraph (B) on which or in
5 which reside Indians or Alaskan Natives that,
6 as determined by the Secretary of the Interior,
7 are eligible for services generally available to
8 Indians under Federal laws specifically applica-
9 ble to Indians.

10 “(B) AREAS.—The areas referred to in
11 subparagraph (A) are—

12 “(i) an Indian reservation;

13 “(ii) Indian trust land or restricted
14 Indian land that is not subject to fee title
15 alienation without the approval of the Fed-
16 eral Government; and

17 “(iii) an Indian or Alaska Native vil-
18 lage, group, or community.

19 “(14) INTERSTATE SYSTEM.—The term ‘Inter-
20 state System’ means the Dwight D. Eisenhower Na-
21 tional System of Interstate and Defense Highways
22 described in section 103(c).

23 “(15) MAINTENANCE.—

24 “(A) IN GENERAL.—The term ‘mainte-
25 nance’ means the preservation of a highway.

1 “(B) INCLUSIONS.—The term ‘mainte-
2 nance’ includes the preservation of—

3 “(i) the surface, shoulders, roadsides,
4 and structures of a highway; and

5 “(ii) such traffic-control devices as are
6 necessary for safe, secure, and efficient use
7 of a highway.

8 “(16) MAINTENANCE AREA.—The term ‘main-
9 tenance area’ means an area that was designated as
10 a nonattainment area, but was later redesignated by
11 the Administrator of the Environmental Protection
12 Agency as an attainment area, under section 107(d)
13 of the Clean Air Act (42 U.S.C. 7407(d)).

14 “(17) NATIONAL FOREST SYSTEM ROAD OR
15 TRAIL.—The term ‘National Forest System road or
16 trail’ means a forest road or trail that is under the
17 jurisdiction of the Forest Service.

18 “(18) NATIONAL HIGHWAY SYSTEM.—The term
19 ‘National Highway System’ means the Federal-aid
20 highway system described in section 103(b).

21 “(19) OPERATING COSTS FOR TRAFFIC MONI-
22 TORING, MANAGEMENT, AND CONTROL.—The term
23 ‘operating costs for traffic monitoring, management,
24 and control’ includes—

25 “(A) labor costs;

1 “(B) administrative costs;

2 “(C) costs of utilities and rent;

3 “(D) costs incurred by transportation
4 agencies for technology to monitor critical
5 transportation infrastructure for security pur-
6 poses; and

7 “(E) other costs associated with transpor-
8 tation systems management and operations and
9 the continuous operation of traffic control, such
10 as—

11 “(i) an integrated traffic control sys-
12 tem;

13 “(ii) an incident management pro-
14 gram; and

15 “(iii) a traffic control center.

16 “(20) OPERATIONAL IMPROVEMENT.—

17 “(A) IN GENERAL.—The term ‘operational
18 improvement’ means—

19 “(i) a capital improvement for instal-
20 lation or implementation of—

21 “(I) a transportation system
22 management and operations program;

23 “(II) traffic and transportation
24 security surveillance and control
25 equipment;

1 “(III) a computerized signal sys-
2 tem;

3 “(IV) a motorist information sys-
4 tem;

5 “(V) an integrated traffic control
6 system;

7 “(VI) an incident management
8 program;

9 “(VII) equipment and programs
10 for transportation response to man-
11 made and natural disasters; or

12 “(VIII) a transportation demand
13 management facility, strategy, or pro-
14 gram; and

15 “(ii) such other capital improvements
16 to a public road as the Secretary may des-
17 ignate by regulation.

18 “(B) EXCLUSIONS.—The term ‘operational
19 improvement’ does not include—

20 “(i) a resurfacing, restorative, or re-
21 habilitative improvement;

22 “(ii) construction of an additional
23 lane, interchange, or grade separation; or

24 “(iii) construction of a new facility on
25 a new location.

1 “(21) PARK ROAD.—The term ‘park road’
2 means a public road (including a bridge built pri-
3 marily for pedestrian use, but with capacity for use
4 by emergency vehicles) that is located within, or pro-
5 vides access to, an area in the National Park System
6 with title and maintenance responsibilities vested in
7 the United States.

8 “(22) PARKWAY.—The term ‘parkway’ means a
9 parkway authorized by an Act of Congress on land
10 to which title is vested in the United States.

11 “(23) PROJECT.—The term ‘project’ means—

12 “(A)(i) an undertaking to construct a par-
13 ticular portion of a highway; or

14 “(ii) if the context so implies, a particular
15 portion of a highway so constructed; and

16 “(B) any other undertaking eligible for as-
17 sistance under this title.

18 “(24) PROJECT AGREEMENT.—The term
19 ‘project agreement’ means the formal instrument to
20 be executed by the Secretary and a State transpor-
21 tation department under section 106.

22 “(25) PUBLIC AUTHORITY.—The term ‘public
23 authority’ means a Federal, State, county, town, or
24 township, Indian tribe, municipal or other local gov-
25 ernment or instrumentality with authority to fi-

1 nance, build, operate, or maintain toll or toll-free fa-
2 cilities.

3 “(26) PUBLIC FOREST SERVICE ROAD.—The
4 term ‘public Forest Service road’ means a classified
5 forest road—

6 “(A) that is open to public travel;

7 “(B) for which title and maintenance re-
8 sponsibility is vested in the Federal Govern-
9 ment; and

10 “(C) that has been designated a public
11 road by the Forest Service.

12 “(27) PUBLIC LANDS DEVELOPMENT ROADS
13 AND TRAILS.—The term ‘public lands development
14 roads and trails’ means roads and trails that the
15 Secretary of the Interior determines are of primary
16 importance for the development, protection, adminis-
17 tration, and use of public lands and resources under
18 the control of the Secretary of the Interior.

19 “(28) PUBLIC LANDS HIGHWAY.—The term
20 ‘public lands highway’ means—

21 “(A) a forest road that is—

22 “(i) under the jurisdiction of, and
23 maintained by, a public authority; and

24 “(ii) open to public travel; and

1 “(B) any highway through unappropriated
2 or unreserved public land, nontaxable Indian
3 land, or any other Federal reservation that is—

4 “(i) under the jurisdiction of, and
5 maintained by, a public authority; and

6 “(ii) open to public travel.

7 “(29) PUBLIC ROAD.—The term ‘public road’
8 means any road or street that is—

9 “(A) under the jurisdiction of, and main-
10 tained by, a public authority; and

11 “(B) open to public travel.

12 “(30) RECREATIONAL ROAD.—The term ‘rec-
13 reational road’ means a public road—

14 “(A) that provides access to a museum,
15 lake, reservoir, visitors center, gateway to a
16 major wilderness area, public use area, or rec-
17 reational or historic site; and

18 “(B) for which title is vested in the Fed-
19 eral Government.

20 “(31) REFUGE ROAD.—The term ‘refuge road’
21 means a public road—

22 “(A) that provides access to or within a
23 unit of the National Wildlife Refuge System or
24 a national fish hatchery; and

1 “(B) for which title and maintenance re-
2 sponsibility is vested in the United States Gov-
3 ernment.

4 “(32) RURAL AREA.—The term ‘rural area’
5 means an area of a State that is not included in an
6 urban area.

7 “(33) SAFETY IMPROVEMENT PROJECT.—The
8 term ‘safety improvement project’ means a project
9 that meets the requirements in section 150.

10 “(34) SECRETARY.—The term ‘Secretary’
11 means the Secretary of Transportation.

12 “(35) STATE.—The term ‘State’ means—

13 “(A) a State;

14 “(B) the District of Columbia; and

15 “(C) the Commonwealth of Puerto Rico.

16 “(36) STATE FUNDS.—The term ‘State funds’
17 includes funds that are—

18 “(A) raised under the authority of the
19 State (or any political or other subdivision of a
20 State); and

21 “(B) made available for expenditure under
22 the direct control of the State transportation
23 department.

24 “(37) STATE TRANSPORTATION DEPART-
25 MENT.—The term ‘State transportation department’

1 means the department, agency, commission, board,
2 or official of any State charged by the laws of the
3 State with the responsibility for highway construc-
4 tion.

5 “(38) TEMPORARY FOREST ROAD.—The term
6 ‘temporary forest road’ means a forest road that—

7 “(A) is authorized by the Forest Service
8 through contract, permit, lease, other written
9 authorization, or emergency operation; and

10 “(B)(i) is not intended to be a part of the
11 forest transportation system; and

12 “(ii) is not necessary for long-term re-
13 source management.

14 “(39) TERRITORIAL HIGHWAY SYSTEM.—The
15 term ‘territorial highway system’ means the system
16 of arterial highways, collector roads, and necessary
17 interisland connectors in American Samoa, the Com-
18 monwealth of the Northern Mariana Islands, Guam,
19 and the United States Virgin Islands that have been
20 designated by the appropriate Governor or chief ex-
21 ecutive officer of a territory, and approved by the
22 Secretary, in accordance with section 215.

23 “(40) TRANSPORTATION ENHANCEMENT ACTIV-
24 ITY.—The term ‘transportation enhancement activ-
25 ity’ means, with respect to any project or the area

1 to be served by the project, any of the following ac-
2 tivities as the activities relate to surface transpor-
3 tation:

4 “(A) Provision of facilities for pedestrians
5 and bicycles.

6 “(B) Provision of safety and educational
7 activities for pedestrians and bicyclists.

8 “(C) Acquisition of scenic easements and
9 scenic or historic sites.

10 “(D) Conduct of scenic or historic highway
11 programs (including the provision of tourist and
12 welcome center facilities).

13 “(E) Landscaping and other scenic beau-
14 tification.

15 “(F) Historic preservation.

16 “(G) Rehabilitation and operation of his-
17 toric transportation buildings, structures, or fa-
18 cilities (including historic railroad facilities and
19 canals).

20 “(H) Preservation of abandoned railway
21 corridors (including the conversion and use of
22 the corridors for pedestrian or bicycle trails).

23 “(I) Control and removal of outdoor adver-
24 tising.

25 “(J) Archaeological planning and research.

1 “(K) Environmental mitigation—

2 “(i) to address water pollution due to
3 highway runoff; or

4 “(ii) reduce vehicle-caused wildlife
5 mortality while maintaining habitat
6 connectivity.

7 “(L) Establishment of transportation mu-
8 seums.

9 “(41) TRANSPORTATION SYSTEMS MANAGE-
10 MENT AND OPERATIONS.—

11 “(A) IN GENERAL.—The term ‘transpor-
12 tation systems management and operations’
13 means an integrated program to optimize the
14 performance of existing infrastructure through
15 the implementation of multimodal and inter-
16 modal, cross-jurisdictional systems, services,
17 and projects designed to preserve capacity and
18 improve security, safety, and reliability of Fed-
19 eral-aid highways.

20 “(B) INCLUSIONS.—The term ‘transpor-
21 tation systems management and operations’
22 includes—

23 “(i) regional operations collaboration
24 and coordination activities between trans-
25 portation and public safety agencies; and

1 “(ii) improvements to the transpor-
2 tation system such as traffic detection and
3 surveillance, arterial management, freeway
4 management, demand management, work
5 zone management, emergency manage-
6 ment, electronic toll collection, automated
7 enforcement, traffic incident management,
8 roadway weather management, traveler in-
9 formation services, commercial vehicle op-
10 erations, traffic control, freight manage-
11 ment, and coordination of highway, rail,
12 transit, bicycle, and pedestrian operations.

13 “(42) UNCLASSIFIED FOREST ROAD.—The term
14 ‘unclassified forest road’ means a forest road that is
15 not managed by the Forest Service as part of the
16 forest transportation system.

17 “(43) URBAN AREA.—The term ‘urban area’
18 means—

19 “(A) an urbanized area (or, in the case of
20 an urbanized area encompassing more than 1
21 State, the portion of the urbanized area in each
22 State); and

23 “(B) an urban place designated by the Bu-
24 reau of the Census that—

1 “(i) has a population of 5,000 or
2 more;

3 “(ii) is not located within any urban-
4 ized area; and

5 “(iii) is located within boundaries
6 that—

7 “(I) are fixed cooperatively by re-
8 sponsible State and local officials,
9 subject to approval by the Secretary;
10 and

11 “(II) encompass, at a minimum,
12 the entire urban place designated by
13 the Bureau of the Census (except in
14 the case of cities in the State of
15 Maine and in the State of New
16 Hampshire).

17 “(44) URBANIZED AREA.—The term ‘urbanized
18 area’ means an area that—

19 “(A) has a population of 50,000 or more;

20 “(B) is designated by the Bureau of the
21 Census; and

22 “(C) is located within boundaries that—

23 “(i) are fixed cooperatively by respon-
24 sible State and local officials, subject to
25 approval by the Secretary; and

1 “(ii) encompass, at a minimum, the
2 entire urbanized area within a State as
3 designated by the Bureau of the Census.”.

1-1

1 **TITLE I—FEDERAL-AID**
2 **HIGHWAYS**
3 **Subtitle A—Funding**

4 **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

5 The following sums are authorized to be appropriated
6 out of the Highway Trust Fund (other than the Mass
7 Transit Account):

8 (1) INTERSTATE MAINTENANCE PROGRAM.—

9 For the Interstate maintenance program under sec-
10 tion 119 of title 23, United States Code—

11 (A) \$5,500,000,000 for fiscal year 2004;

12 (B) \$6,300,000,000 for fiscal year 2005;

13 and

14 (C) \$6,550,000,000 for each of fiscal years
15 2006 through 2009.

16 (2) NATIONAL HIGHWAY SYSTEM.—For the Na-
17 tional Highway System under section 103 of that
18 title—

19 (A) \$6,650,000,000 for fiscal year 2004;

20 (B) \$7,650,000,000 for fiscal year 2005;

21 and

22 (C) \$7,950,000,000 for each of fiscal years
23 2006 through 2009.

24 (3) BRIDGE PROGRAM.—For the bridge pro-
25 gram under section 144 of that title—

1–2

1 (A) \$4,700,000,000 for fiscal year 2004;

2 (B) \$5,400,000,000 for fiscal year 2005;

3 and

4 (C) \$5,600,000,000 for each of fiscal years
5 2006 through 2009.

6 (4) SURFACE TRANSPORTATION PROGRAM.—

7 For the surface transportation program under sec-
8 tion 133 of that title—

9 (A) \$6,950,000,000 for fiscal year 2004;

10 (B) \$7,950,000,000 for fiscal year 2005;

11 and

12 (C) \$8,250,000,000 for each of fiscal years
13 2006 through 2009.

14 (5) CONGESTION MITIGATION AND AIR QUALITY

15 IMPROVEMENT PROGRAM.—For the congestion miti-
16 gation and air quality improvement program under
17 section 149 of that title—

18 (A) \$1,900,000,000 for fiscal year 2004;

19 (B) \$2,150,000,000 for fiscal year 2005;

20 and

21 (C) \$2,225,000,000 for each of fiscal years
22 2006 through 2009.

23 (6) HIGHWAY SAFETY IMPROVEMENT PRO-

24 GRAM.—For the highway safety improvement pro-
25 gram under section 150 of that title—

1–3

- 1 (A) \$1,200,000,000 for fiscal year 2004;
2 (B) \$1,300,000,000 for fiscal year 2005;
3 and
4 (C) \$1,350,000,000 for each of fiscal years
5 2006 through 2009.

6 (7) APPALACHIAN DEVELOPMENT HIGHWAY
7 SYSTEM PROGRAM.—For the Appalachian develop-
8 ment highway system program under subtitle IV of
9 title 40, United States Code, \$590,000,000 for each
10 of fiscal years 2004 through 2009.

11 (8) RECREATIONAL TRAILS PROGRAM.—For the
12 recreational trails program under section 206 of title
13 23, United States Code, \$60,000,000 for each of fis-
14 cal years 2004 through 2009.

15 (9) FEDERAL LANDS HIGHWAYS PROGRAM.—

16 (A) INDIAN RESERVATION ROADS.—For
17 Indian reservation roads under section 204 of
18 that title—

- 19 (i) \$300,000,000 for fiscal year 2004;
20 (ii) \$325,000,000 for fiscal year 2005;
21 (iii) \$350,000,000 for fiscal year
22 2006;
23 (iv) \$375,000,000 for fiscal year
24 2007;

1–4

1 (v) \$400,000,000 for fiscal year 2008;

2 and

3 (vi) \$425,000,000 for fiscal year

4 2009.

5 (B) RECREATION ROADS.—For recreation
6 roads under section 204 of that title,
7 \$50,000,000 for each of fiscal years 2004
8 through 2009.

9 (C) PARK ROADS AND PARKWAYS.—For
10 park roads and parkways under section 204 of
11 that title—

12 (i) \$300,000,000 for fiscal year 2004;

13 (ii) \$310,000,000 for fiscal year 2005;

14 and

15 (iii) \$320,000,000 for each of fiscal
16 years 2006 through 2009.

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

20 (E) PUBLIC LANDS HIGHWAYS.—For Fed-
21 eral lands highways under section 204 of that
22 title, \$300,000,000 for each of fiscal years
23 2004 through 2009.

1–5

1 (F) SAFETY.—For safety under section
2 204 of that title, \$40,000,000 for each of fiscal
3 years 2004 through 2009.

4 (10) MULTISTATE CORRIDOR PROGRAM.—For
5 the multistate corridor program under section 171 of
6 that title—

7 (A) \$112,500,000 for fiscal year 2004;

8 (B) \$135,000,000 for fiscal year 2005;

9 (C) \$157,500,000 for fiscal year 2006;

10 (D) \$180,000,000 for fiscal year 2007;

11 (E) \$202,500,000 for fiscal year 2008; and

12 (F) \$225,000,000 for fiscal year 2009.

13 (11) BORDER PLANNING, OPERATIONS, AND
14 TECHNOLOGY PROGRAM.—For the border planning,
15 operations, and technology program under section
16 172 of that title—

17 (A) \$112,500,000 for fiscal year 2004;

18 (B) \$135,000,000 for fiscal year 2005;

19 (C) \$157,500,000 for fiscal year 2006;

20 (D) \$180,000,000 for fiscal year 2007;

21 (E) \$202,500,000 for fiscal year 2008; and

22 (F) \$225,000,000 for fiscal year 2009.

23 (12) NATIONAL SCENIC BYWAYS PROGRAM.—
24 For the national scenic byways program under sec-
25 tion 162 of title 23, United States Code—

1–6

- 1 (A) \$34,000,000 for fiscal year 2004;
2 (B) \$35,000,000 for fiscal year 2005;
3 (C) \$36,000,000 for fiscal year 2006;
4 (D) \$37,000,000 for fiscal year 2007; and
5 (E) \$39,000,000 for each of fiscal years
6 2008 and 2009.

7 (13) HIGHWAY USE TAX EVASION PROJECTS.—
8 For highway use tax evasion projects under section
9 143 of title 23, United States Code—

- 10 (A) \$26,000,000 for fiscal year 2004;
11 (B) \$54,000,000 for each of fiscal years
12 2005 and 2006;
13 (C) \$44,000,000 for fiscal year 2007; and
14 (D) \$9,000,000 for each of fiscal years
15 2008 and 2009.

16 (14) INFRASTRUCTURE PERFORMANCE AND
17 MAINTENANCE PROGRAM.—For carrying out the in-
18 frastructure performance and maintenance program
19 under section 139 of that title—

- 20 (A) \$2,500,000,000 for each of fiscal years
21 2004 through 2006;
22 (B) \$2,000,000,000 for each of fiscal years
23 2007 and 2008; and
24 (C) \$500,000,000 for fiscal year 2009.

1–7

1 (15) CONSTRUCTION OF FERRY BOATS AND
2 FERRY TERMINAL FACILITIES.—For construction of
3 ferry boats and ferry terminal facilities under sec-
4 tion 1064 of the Intermodal Surface Transportation
5 Efficiency Act of 1991 (23 U.S.C. 129 note; 105
6 Stat. 2005), \$38,000,000 for each of fiscal years
7 2004 through 2009.

8 (16) COMMONWEALTH OF PUERTO RICO HIGH-
9 WAY PROGRAM.—For the Commonwealth of Puerto
10 Rico highway program under section 173 of that
11 title—

12 (A) \$140,000,000 for fiscal year 2004;

13 (B) \$145,000,000 for fiscal year 2005;

14 (C) \$149,000,000 for fiscal year 2006;

15 (D) \$154,000,000 for fiscal year 2007;

16 (E) \$160,000,000 for fiscal year 2008; and

17 (F) \$163,000,000 for fiscal year 2009.

18 **SEC. 1102. OBLIGATION CEILING.**

19 **[RESERVED]**

20 **SEC. 1103. APPORTIONMENTS.**

21 (a) ADMINISTRATIVE EXPENSES.—

22 (1) IN GENERAL.—Section 104 of title 23,
23 United States Code, is amended by striking sub-
24 section (a) and inserting the following:

25 “(a) ADMINISTRATIVE EXPENSES.—

1–8

1 “(1) IN GENERAL.—There are authorized to be
2 appropriated from the Highway Trust Fund (other
3 than the Mass Transit Account) to be made avail-
4 able to the Secretary of Transportation for adminis-
5 trative expenses of the Federal Highway
6 Administration—

7 “(A) \$590,000,000 for fiscal year 2004;

8 “(B) \$610,000,000 for fiscal year 2005;

9 “(C) \$630,000,000 for fiscal year 2006;

10 “(D) \$650,000,000 for fiscal year 2007;

11 “(E) \$675,000,000 for fiscal year 2008;

12 and

13 “(F) \$690,000,000 for fiscal year 2009.

14 “(2) PURPOSES.—The funds authorized by this
15 subsection shall be used—

16 “(A) to administer the provisions of law to
17 be financed from appropriations for the Fed-
18 eral-aid highway program and programs au-
19 thorized under chapter 2; and

20 “(B) to make transfers of such sums as
21 the Secretary determines to be appropriate to
22 the Appalachian Regional Commission for ad-
23 ministrative activities associated with the Appa-
24 lachian development highway system.

1–9

1 “(3) AVAILABILITY.—The funds made available
2 under paragraph (1) shall remain available until ex-
3 pended.”.

4 (2) CONFORMING AMENDMENTS.—Section 104
5 of title 23, United States Code, is amended—

6 (A) in the matter preceding paragraph (1)
7 of subsection (b), by striking “the deduction au-
8 thorized by subsection (a) and”;

9 (B) in the first sentence of subsection
10 (e)(1), by striking “, and also” and all that fol-
11 lows through “this section”; and

12 (C) in subsection (i), by striking “de-
13 ducted” and inserting “made available”.

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

16 (1) by striking paragraph (1) and inserting the
17 following:

18 “(1) SET-ASIDE.—On October 1 of each fiscal
19 year, the Secretary shall set aside 1 percent of the
20 funds authorized to be appropriated for expenditure
21 upon programs identified in that subsection (exclud-
22 ing the Federal lands highway program and the Ap-
23 palachian development highway program).”;

24 (2) in paragraph (2), by striking “per centum”
25 and inserting “percent”;

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1 (3) in paragraph (3)—

2 (A) by striking “The funds” and inserting
3 the following:

4 “(A) IN GENERAL.—The funds”; and

5 (B) by striking “These funds” and all that
6 follows and inserting the following:

7 “(B) UNUSED FUNDS.—Any funds that
8 are not used to carry out section 134 may be
9 made available by a metropolitan planning or-
10 ganization to the State to fund activities under
11 section 135.”; and

12 (4) by adding at the end the following:

13 “(6) FEDERAL SHARE.—Funds apportioned to
14 a State under this subsection shall be matched in ac-
15 cordance with section 120(b) unless the Secretary
16 determines that the interests of the Federal-aid
17 highway program would be best served without the
18 match.”.

19 **SEC. 1104. MINIMUM GUARANTEE.**

20 Section 105 of title 23, United States Code, is re-
21 pealed.

22 **SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.**

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

25 (1) in subsection (a)—

1–11

1 (A) in paragraphs (1) and (2), by striking
2 “2000” each place it appears and inserting
3 “2006”; and

4 (B) in paragraph (2)—

5 (i) by striking “the succeeding” and
6 inserting “that”; and

7 (ii) by striking “and the motor carrier
8 safety grant program”;

9 (2) in subsection (b)(1), by striking subpara-
10 graph (A) and inserting the following:

11 “(A) the sums authorized to be appro-
12 priated from the Highway Trust Fund (other
13 than the Mass Transit Account) for each of the
14 Federal-aid highway and highway safety con-
15 struction programs (other than the equity
16 bonus program) and for which funds are allo-
17 cated from the Highway Trust Fund by the
18 Secretary under this title and the **【Safe, Ac-
19 countable, Flexible, and Efficient Transpor-
20 tation Equity Act of 2003】**; bears to”;

21 (3) in subsection (c), by inserting “the highway
22 safety improvement program,” after “the surface
23 transportation program,”; and

24 (4) by striking subsections (e), (f), and (g).

1 **Subtitle B—New Programs**

2 **SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.**

3 **NANCE PROGRAM.**

4 (a) IN GENERAL.—Subchapter I of chapter 1 of title

5 23, United States Code, is amended by inserting after sec-

6 tion 138 the following:

7 **“§ 139. Infrastructure performance and maintenance**

8 **program**

9 “(a) ESTABLISHMENT.—The Secretary shall estab-

10 lish and implement an infrastructure performance and

11 maintenance program in accordance with this section.

12 “(b) ELIGIBLE PROJECTS.—

13 “(1) IN GENERAL.—A State may obligate funds

14 allocated to the State under this section only for

15 highway projects eligible under the Interstate main-

16 tenance program under section 119, the National

17 Highway System program under section 103, the

18 surface transportation program under section 133,

19 and the highway bridge replacement and rehabilita-

20 tion program under section 144 that will—

21 “(A) preserve, maintain, or otherwise ex-

22 tend, in a cost-effective manner, the useful life

23 of existing highway infrastructure elements; or

24 “(B) provide operational improvements (in-

25 cluding traffic management and intelligent

2-2

1 transportation system strategies and limited ca-
2 pacity enhancements) at points of recurring
3 highway congestion.

4 “(2) EXCEPTIONS.—Funds made available
5 under paragraph (1)—

6 “(A) shall remain available for obligation
7 only as provided in subsection (c);

8 “(B) shall not be subject to any deduction
9 or set-aside requirement; and

10 “(C) shall not be transferred to another
11 Federal agency or program.

12 “(3) SET-ASIDE.—Notwithstanding any other
13 provision of law, of the amounts made available
14 under section 1101(a)(14) of the **【Safe, Account-**
15 **able, Flexible, and Efficient Transportation Equity**
16 **Act of 2003】**, \$439,000,000 shall be available for
17 obligation to carry out this section without further
18 appropriation.

19 “(c) PERIOD OF AVAILABILITY.—

20 “(1) OBLIGATION WITHIN 180 DAYS.—

21 “(A) IN GENERAL.—Funds apportioned to
22 a State under this section shall be obligated by
23 the State not later than 180 days after the date
24 of apportionment.

2-3

1 “(B) UNOBLIGATED FUNDS.—Any
2 amounts that remain unobligated at the end of
3 that period shall be allocated in accordance with
4 subsection (d).

5 “(2) OBLIGATION BY END OF FISCAL YEAR.—

6 “(A) IN GENERAL.—All funds allocated or
7 reallocated under this section shall remain
8 available for obligation until the last day of the
9 fiscal year for which the funds are apportioned.

10 “(B) UNOBLIGATED FUNDS.—Any
11 amounts allocated that remain unobligated at
12 the end of the fiscal year shall lapse.

13 “(d) REDISTRIBUTION OF ALLOCATED FUNDS AND
14 OBLIGATION AUTHORITY.—

15 “(1) IN GENERAL.—On the date that is 180
16 days after the date of allocation, or as soon there-
17 after as practicable, for each fiscal year, the Sec-
18 retary shall—

19 “(A) withdraw—

20 “(i) any funds allocated to a State
21 under this section that remain unobligated;
22 and

23 “(ii) an equal amount of obligation
24 authority provided for the use of the funds
25 in accordance with section 1101(a)(14) of

2-4

1 the **Safe, Accountable, Flexible, and Effi-**
2 **cient Transportation Equity Act of 2003**];
3 and

4 “(B) reallocate the funds and redistribute
5 the obligation authority to those States that—

6 “(i) have fully obligated all amounts
7 allocated under this section for the fiscal
8 year; and

9 “(ii) demonstrate that the State is
10 able to obligate additional amounts for
11 projects eligible under this section before
12 the end of the fiscal year.

13 “(2) EQUITY BONUS.—The calculation and dis-
14 tribution of funds under section 105 shall not be ad-
15 justed as a result of the allocation of funds under
16 this subsection.

17 “(e) FEDERAL SHARE PAYABLE.—The Federal share
18 payable for a project funded under this section shall be
19 determined in accordance with section 120.”.

20 (b) CONFORMING AMENDMENT.—The analysis for
21 chapter 1 of title 23, United States Code, is amended by
22 adding after the item relating to section 138 the following:

“139. Infrastructure performance and maintenance program.”.

23 **SEC. 1202. FUTURE OF FEDERAL-AID SYSTEM.**

24 (a) DECLARATION OF POLICY.—Section 101 of title
25 23, United States Code, is amended—

2-5

1 (1) by striking “(b) It is hereby declared to be”
2 and inserting the following:

3 “(b) DECLARATION OF POLICY.—

4 “(1) ACCELERATION OF CONSTRUCTION OF
5 FEDERAL-AID HIGHWAY SYSTEMS.—Congress de-
6 clares that it is”;

7 (2) in the second paragraph, by striking “It is
8 hereby declared” and inserting the following:

9 “(2) COMPLETION OF INTERSTATE SYSTEM.—
10 Congress declares”; and

11 (3) by striking the last paragraph and inserting
12 the following:

13 “(3) TRANSPORTATION NEEDS OF 21ST CEN-
14 TURY.—Congress declares that—

15 “(A) it is in the national interest to pre-
16 serve and enhance the surface transportation
17 system to meet the needs of the United States
18 for the 21st Century;

19 “(B) the current urban and long distance
20 personal travel and freight movement demands
21 have surpassed the original forecasts and travel
22 demand patterns are expected to change;

23 “(C) continued planning for and invest-
24 ment in surface transportation is critical to en-
25 sure the surface transportation system ade-

2-6

1 quately meets the changing travel demands of
2 the future;

3 “(D) among the foremost needs that the
4 surface transportation system must meet are
5 safe, efficient, and reliable—

6 “(i) national and interregional per-
7 sonal mobility;

8 “(ii) flow of interstate commerce; and

9 “(iii) travel movements essential for
10 national security;

11 “(E) to the maximum extent practicable,
12 actions under this title should address conges-
13 tion and freight transportation to provide for a
14 strong and vigorous national economy;

15 “(F) special emphasis should be devoted to
16 providing safe and efficient access for the type
17 and size of commercial and military vehicles
18 that access designated National Highway Sys-
19 tem intermodal freight terminals; and

20 “(G) the Secretary should take appropriate
21 actions to preserve and enhance the Interstate
22 System to meet the needs of the 21st Cen-
23 tury.”.

24 (b) NATIONAL SURFACE TRANSPORTATION SYSTEM
25 STUDY.—

2-7

1 (1) OFFICE.—The Secretary shall establish an
2 office, under the direction of the Secretary, to—

3 (A) conduct a complete investigation and
4 study of the current condition and future needs
5 of the surface transportation system of the
6 United States, including—

7 (i) the National Highway System;

8 (ii) the Interstate System;

9 (iii) the strategic highway network;

10 (iv) congressional high priority cor-
11 ridors;

12 (v) intermodal connectors;

13 (vi) freight facilities;

14 (vii) navigable waterways;

15 (viii) mass transportation;

16 (ix) commercial rail facilities; and

17 (x) surface access to airports; and

18 (B) develop a conceptual plan, with alter-
19 native approaches, for the future to ensure that
20 the surface transportation system will continue
21 to serve the needs of the United States, includ-
22 ing specific recommendations regarding design
23 and operational standards, Federal policies, and
24 legislative changes.

2-8

1 (2) SPECIFIC ISSUES.—In conducting the inves-
2 tigation and study, the Office shall specifically
3 address—

4 (A) the current condition and performance
5 of the Interstate System (including the physical
6 condition of bridges and pavements and oper-
7 ational characteristics and performance), rely-
8 ing primarily on existing data sources;

9 (B) the future of the Interstate System,
10 based on a range of legislative and policy ap-
11 proaches for 15-, 30-, and 50-year time periods;

12 (C) the expected demographics and busi-
13 ness uses that impact transportation;

14 (D) the expected use of the surface trans-
15 portation system, including the effects of chang-
16 ing vehicle types, fleet size and weights, and
17 traffic volumes;

18 (E) desirable design policies and standards
19 for future improvements of the surface trans-
20 portation system, including additional access
21 points;

22 (F) the identification of both urban and
23 rural needs for the surface transportation sys-
24 tem;

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1 (G) the potential for expansion, upgrades,
2 or other changes to the surface transportation
3 system, including—

4 (i) deployment of advanced materials
5 and intelligent technologies;

6 (ii) critical multistate, urban, and
7 rural corridors needing capacity, safety,
8 and operational enhancements;

9 (iii) improvements to intermodal link-
10 ages;

11 (iv) security and military deployment
12 enhancements;

13 (v) strategies to enhance asset preser-
14 vation; and

15 (vi) implementation strategies;

16 (H) the improvement of emergency pre-
17 paredness and evacuation using the surface
18 transportation system, including—

19 (i) examination of the potential use of
20 all modes of the surface transportation sys-
21 tem in the safe and efficient evacuation of
22 citizens during times of emergency;

23 (ii) identification of the location of
24 critical bottlenecks; and

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1 (iii) development of strategies to im-
2 prove system redundancy, especially in
3 areas with a high potential for terrorist at-
4 tacks;

5 (I) alternatives for addressing environ-
6 mental concerns in recommended alternatives;

7 (J) the evaluation and assessment of the
8 current and future capabilities for conducting
9 system-wide real-time performance data collec-
10 tion and analysis, traffic monitoring, and sys-
11 tem operations and management; and

12 (K) a range of policy and legislative alter-
13 natives for addressing future needs for the sur-
14 face transportation system, including funding
15 needs and potential approaches to provide
16 funds.

17 (3) TECHNICAL ADVISORY COMMITTEE.—The
18 Office shall establish a technical advisory committee,
19 in a manner consistent with the Federal Advisory
20 Committee Act (5 U.S.C. App.), to collect and evalu-
21 ate technical input from—

22 (A) the Department of Defense;

23 (B) appropriate Federal, State, and local
24 officials with responsibility for transportation;

25 (C) transportation and trade associations;

1 (D) emergency management officials;
2 (E) freight providers;
3 (F) the general public; and
4 (G) other entities and persons determined
5 appropriate by the Office to ensure a diverse
6 range of views.

7 (4) REPORT.—Not later than 4 years after the
8 date of enactment of this Act, the Office shall sub-
9 mit to the Committee on Environment and Public
10 Works of the Senate and the Committee on Trans-
11 portation and Infrastructure of the House of Rep-
12 resentatives, and make readily available to the pub-
13 lic, a report on the results of the investigation and
14 study conducted under this subsection.

15 **SEC. 1203. FREIGHT TRANSPORTATION GATEWAYS;**
16 **FREIGHT INTERMODAL CONNECTIONS.**

17 (a) FREIGHT TRANSPORTATION GATEWAYS.—Chap-
18 ter 3 of title 23, United States Code, is amended by add-
19 ing at the end the following:

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

21 **“(a) IN GENERAL.—**

22 **“(1) ESTABLISHMENT.—**The Secretary shall es-
23 tablish a freight transportation gateways program to
24 improve productivity, security, and safety of freight

1 transportation gateways, while mitigating congestion
2 and community impacts in the area of the gateways.

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

5 “(A) to facilitate and support multimodal
6 freight transportation initiatives at the State
7 and local levels in order to improve freight
8 transportation gateways and mitigate the im-
9 pact of congestion on the environment in the
10 area of the gateways;

11 “(B) to provide capital funding to address
12 infrastructure and freight operational needs at
13 freight transportation gateways;

14 “(C) to encourage adoption of new financ-
15 ing strategies to leverage State, local, and pri-
16 vate investment in freight transportation gate-
17 ways; and

18 “(D) to support military mobilization and
19 readiness.

20 “(b) STATE RESPONSIBILITIES.—

21 “(1) PROJECT DEVELOPMENT PROCESS.—Each
22 State shall ensure that intermodal freight transpor-
23 tation, trade facilitation, and economic development
24 needs are adequately addressed and fully integrated
25 into the project development process, including

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1 transportation planning through final design and
2 construction of freight-related transportation
3 projects.

4 “(2) FREIGHT TRANSPORTATION COORDI-
5 NATOR.—

6 “(A) IN GENERAL.—Each State shall des-
7 ignate a freight transportation coordinator.

8 “(B) DUTIES.—The coordinator shall—

9 “(i) foster public and private sector
10 collaboration needed to implement complex
11 solutions to freight transportation and
12 freight transportation gateway problems,
13 including—

14 “(I) coordination of metropolitan
15 and statewide transportation activities
16 with trade and economic interests;
17 and

18 “(II) coordination with other
19 States, local Department of Defense
20 officials, and local Department of
21 Homeland Security officials, agencies,
22 and organizations to find regional so-
23 lutions to freight transportation prob-
24 lems; and

1 “(ii) promote freight professional ca-
2 pacity building programs for the State.

3 “(c) INNOVATIVE FINANCE STRATEGIES.—

4 “(1) IN GENERAL.—States and localities are
5 encouraged to adopt innovative financing strategies
6 for freight transportation gateway improvements,
7 including—

8 “(A) new user fees;

9 “(B) modifications to existing user fees, in-
10 cluding trade facilitation charges;

11 “(C) revenue options that incorporate pri-
12 vate sector investment; and

13 “(D) a blending of Federal-aid and innova-
14 tive finance programs.

15 “(2) TECHNICAL ASSISTANCE.—The Secretary
16 shall provide technical assistance to States and local-
17 ities with respect to the strategies.

18 “(d) INTERMODAL FREIGHT TRANSPORTATION
19 PROJECTS.—

20 “(1) USE OF SURFACE TRANSPORTATION PRO-
21 GRAM FUNDS.—A State may obligate funds appor-
22 tioned to the State under section 104(b)(3) for pub-
23 licly-owned intermodal freight transportation
24 projects that provide community and highway bene-
25 fits by addressing economic, congestion, security,

1 safety, and environmental issues associated with
2 freight transportation gateways.

3 “(2) ELIGIBLE PROJECTS.—A project eligible
4 for funding under this section—

5 “(A) may include publicly-owned inter-
6 modal freight transfer facilities, access to the
7 facilities, and operational improvements for the
8 facilities (including capital investment for intel-
9 ligent transportation systems), except that
10 projects located within the boundaries of port
11 terminals shall only include the transportation
12 infrastructure modifications necessary to facili-
13 tate direct intermodal access into and out of the
14 port; and

15 “(B) may involve the combining of private
16 and public funds.”.

17 (b) ELIGIBILITY FOR SURFACE TRANSPORTATION
18 PROGRAM FUNDS.—Section 133(b) of title 23, United
19 States Code, is amended by inserting after paragraph (11)
20 the following:

21 “(12) Intermodal freight transportation projects
22 in accordance with section 325(d)(2).”.

23 (c) FREIGHT INTERMODAL CONNECTIONS TO
24 NHS.—Section 103(b) of title 23, United States Code, is
25 amended by adding at the end the following:

1 “(7) FREIGHT INTERMODAL CONNECTIONS TO
2 THE NHS.—

3 “(A) FUNDING SET-ASIDE.—Of the funds
4 apportioned to a State for each fiscal year
5 under section 104(b)(1), an amount determined
6 in accordance with subparagraph (B) shall only
7 be available to the State to be obligated for
8 projects on—

9 “(i) National Highway System routes
10 connecting to intermodal freight terminals
11 identified according to criteria specified in
12 the report to Congress entitled ‘Pulling To-
13 gether: The National Highway System and
14 its Connections to Major Intermodal Ter-
15 minals’ dated May 24, 1996, referred to in
16 paragraph (1), and any modifications to
17 the connections that are consistent with
18 paragraph (4); and

19 “(ii) strategic highway network con-
20 nectors to strategic military deployment
21 ports.

22 “(B) DETERMINATION OF AMOUNT.—The
23 amount of funds for each State for a fiscal year
24 that shall be set aside under subparagraph (A)
25 shall be equal to the greater of—

2-17

1 “(i) the product obtained by
2 multiplying—

3 “(I) the total amount of funds
4 apportioned to the State under section
5 104(b)(1); by

6 “(II) the percentage of miles that
7 routes specified in subparagraph (A)
8 constitute of the total miles on the
9 National Highway System in the
10 State; or

11 “(ii) 2 percent of the annual appor-
12 tionment to the State of funds under
13 104(b)(1).

14 “(C) EXEMPTION FROM SET-ASIDE.—For
15 any fiscal year, a State may obligate the funds
16 otherwise set aside by this paragraph for any
17 project that is eligible under paragraph (6) and
18 is located in the State on a segment of the Na-
19 tional Highway System specified in paragraph
20 (2), if the State certifies and the Secretary con-
21 curs that—

22 “(i) the designated National Highway
23 System intermodal connectors described in
24 subparagraph (A) are in good condition
25 and provide an adequate level of service for

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1 military vehicle and civilian commercial ve-
2 hicle use; and

3 “(ii) significant needs on the des-
4 ignated National Highway System inter-
5 modal connectors are being met or do not
6 exist.”.

7 (d) FEDERAL SHARE PAYABLE.—Section 120 of title
8 23, United States Code, is amended by adding at the end
9 the following:

10 “(m) INCREASED FEDERAL SHARE FOR CONNEC-
11 TORS.—In the case of a project to support a National
12 Highway System intermodal freight connection or stra-
13 tegic highway network connector to a strategic military
14 deployment port described in section 103(b)(7), the Fed-
15 eral share of the total cost of the project shall not exceed
16 90 percent.”.

17 (e) LENGTH LIMITATIONS.—Section 31111(e) of title
18 49, United States Code, is amended—

19 (1) by striking “The” and inserting the fol-
20 lowing:

21 “(1) IN GENERAL.—The”; and

22 (2) by adding at the end the following:

23 “(2) LENGTH LIMITATIONS.—In the interests of
24 economic competitiveness, security, and intermodal
25 connectivity, not later than 3 years after the date of

1 enactment of this paragraph, States shall update the
2 list of Federal-aid primary system highways to
3 include—

4 “(A) strategic highway network connectors
5 to strategic military deployment ports; and

6 “(B) National Highway System intermodal
7 freight connections serving military and com-
8 mercial truck traffic going to major intermodal
9 terminals as described in section
10 103(b)(7)(A)(i).”.

11 (f) CONFORMING AMENDMENT.—The analysis of
12 chapter 3 of title 23, United States Code, is amended by
13 adding at the end the following:

“325. Freight transportation gateways.”.

1 **Subtitle C—Finance**

2 **SEC. 1301. FEDERAL SHARE.**

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

5 (1) in subsection (a)—

6 (A) by striking “PROJECTS.—” and all
7 that follows through “Except” and inserting
8 “PROJECTS.—Except”; and

9 (B) by striking “shall be 90 percent” and
10 all that follows through the end of the sub-
11 section and inserting “shall not exceed 90 per-
12 cent of the total cost of the project.”;

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

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

19 “(d) INCREASED FEDERAL SHARE.—

20 “(1) IN GENERAL.—The Federal share payable
21 under subsection (a) or (b) may be increased for
22 projects and activities in each State in which is
23 located—

24 “(A) nontaxable Indian land;

25 “(B) public land (reserved or unreserved);

3-2

1 “(C) a national forest; or

2 “(D) a national park and monument.

3 “(2) AMOUNT.—

4 “(A) IN GENERAL.—Subject to subpara-
5 graph (B), the Federal share for States de-
6 scribed in paragraph (1) shall be increased by
7 a percentage of the remaining cost that—

8 “(i) is equal to the percentage that—

9 “(I) the area of all land described
10 in paragraph (1) in a State; bears to

11 “(II) the total area of the State;

12 but

13 “(ii) does not exceed 95 percent of the
14 total cost of the project or activity for
15 which the Federal share is provided.

16 “(B) ADJUSTMENT.—The Secretary shall
17 adjust the Federal share for States under sub-
18 paragraph (A) as the Secretary determines nec-
19 essary, on the basis of data provided by the
20 Federal agencies that are responsible for main-
21 taining the data.”.

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

23 Section 104 of title 23, United States Code, is
24 amended by striking subsection (k) and inserting the fol-
25 lowing:

1 “(k) TRANSFER OF HIGHWAY AND TRANSIT
2 FUNDS.—

3 “(1) TRANSFER OF HIGHWAY FUNDS FOR
4 TRANSIT PROJECTS.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), funds made available for transit
7 projects or transportation planning under this
8 title may be transferred to and administered by
9 the Secretary in accordance with chapter 53 of
10 title 49.

11 “(B) NON-FEDERAL SHARE.—The provi-
12 sions of this title relating to the non-Federal
13 share shall apply to the transferred funds.

14 “(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-
15 WAY PROJECTS.—Funds made available for highway
16 projects or transportation planning under chapter 53
17 of title 49 may be transferred to and administered
18 by the Secretary in accordance with this title.

19 “(3) TRANSFER OF HIGHWAY FUNDS TO OTHER
20 FEDERAL AGENCIES.—

21 “(A) IN GENERAL.—Except as provided in
22 paragraphs (1) and (2) and subparagraph (B),
23 funds made available under this title or any
24 other Act that are derived from Highway Trust
25 Fund (other than the Mass Transit account)

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1 may be transferred to another Federal agency
2 if—

3 “(i)(I) an expenditure is specifically
4 authorized in Federal-aid highway legisla-
5 tion or as a line item in an appropriation
6 act; or

7 “(II) a State transportation depart-
8 ment consents to the transfer of funds;

9 “(ii) the Secretary determines, after
10 consultation with the State transportation
11 department (as appropriate), that the Fed-
12 eral agency should carry out a project with
13 the funds; and

14 “(iii) the other Federal agency agrees
15 to accept the transfer of funds and to ad-
16 minister the project.

17 “(B) ADMINISTRATION.—

18 “(i) PROCEDURES.—A project carried
19 out with funds transferred to a Federal
20 agency under subparagraph (A) shall be
21 administered by the Federal agency under
22 the procedures of the Federal agency.

23 “(ii) APPROPRIATIONS.—Funds trans-
24 ferred to a Federal agency under subpara-
25 graph (A) shall not be considered an aug-

3-5

1 mentation of the appropriations of the
2 Federal agency.

3 “(iii) NON-FEDERAL SHARE.—The
4 provisions of this title, or an Act described
5 in subparagraph (A), relating to the non-
6 Federal share shall apply to a project car-
7 ried out with the transferred funds, unless
8 the Secretary determines that it is in the
9 best interest of the United States that the
10 non-Federal share be waived.

11 “(4) TRANSFER OF FUNDS AMONG STATES OR
12 TO FEDERAL HIGHWAY ADMINISTRATION.—

13 “(A) IN GENERAL.—Subject to subpara-
14 graphs (A) through (D), the Secretary may, at
15 the request of a State, transfer funds appor-
16 tioned or allocated to the State to another
17 State, or to the Federal Highway Administra-
18 tion, for the purpose of funding 1 or more spe-
19 cific projects.

20 “(B) ADMINISTRATION.—The transferred
21 funds shall be used for the same purpose and
22 in the same manner for which the transferred
23 funds were authorized.

24 “(C) APPORTIONMENT.—The transfer
25 shall have no effect on any apportionment for-

1 mula used to distribute funds to States under
2 this section or section 105 or 144.

3 “(D) SURFACE TRANSPORTATION PRO-
4 GRAM.—Funds that are apportioned or allo-
5 cated to a State under subsection (b)(3) and at-
6 tributed to an urbanized area of a State with
7 a population of over 200,000 individuals under
8 section 133(d)(2) may be transferred under this
9 paragraph only if the metropolitan planning or-
10 ganization designated for the area concurs, in
11 writing, with the transfer request.

12 “(5) TRANSFER OF OBLIGATION AUTHORITY.—
13 Obligation authority for funds transferred under this
14 subsection shall be transferred in the same manner
15 and amount as the funds for the projects are trans-
16 ferred under this subsection.”.

17 **SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE**
18 **AND INNOVATION ACT AMENDMENTS.**

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

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

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

3-7

1 (3) in paragraph (8) (as redesignated by para-
2 graph (2))—

3 (A) in subparagraph (B), by striking the
4 period at the end and inserting a semicolon;
5 and

6 (B) by striking subparagraph (D) and in-
7 serting the following:

8 “(D) a project that—

9 “(i)(I) is a project for—

10 “(aa) a public freight rail facility
11 or a private facility providing public
12 benefit;

13 “(bb) an intermodal freight
14 transfer facility;

15 “(cc) a means of access to a fa-
16 cility described in item (aa) or (bb);

17 “(dd) a service improvement for
18 a facility described in item (aa) or
19 (bb) (including a capital investment
20 for an intelligent transportation sys-
21 tem); or

22 “(II) comprises a series of projects
23 described in subclause (I) with the com-
24 mon objective of improving the flow of
25 goods;

3-8

1 “(ii) may involve the combining of pri-
2 vate and public sector funds, including in-
3 vestment of public funds in private sector
4 facility improvements; and

5 “(iii) if located within the boundaries
6 of a port terminal, includes only such
7 transportation infrastructure modifications
8 as are necessary to facilitate direct inter-
9 modal access into and out of the port.”;
10 and

11 (4) in paragraph (10) (as redesignated by para-
12 graph (2)) by striking “bond” and inserting “cred-
13 it”.

14 (b) DETERMINATION OF ELIGIBILITY AND PROJECT
15 SELECTION.—Section 182 of title 23, United States Code,
16 is amended—

17 (1) in subsection (a)—

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

20 “(1) INCLUSION IN TRANSPORTATION PLANS
21 AND PROGRAMS.—The project shall satisfy the appli-
22 cable planning and programming requirements of
23 sections 134 and 135 at such time as an agreement
24 to make available a Federal credit instrument is en-
25 tered into under this subchapter.

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

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

9 (C) in paragraph (4)—

10 (i) by striking “Project financing”
11 and inserting “The Federal credit instru-
12 ment”; and

13 (ii) by inserting before the period at
14 the end the following: “that also secure the
15 project obligations”; and

16 (2) in subsection (b)—

17 (A) in paragraph (1), by striking “criteria”
18 the second place it appears and inserting “re-
19 quirements”; and

20 (B) in paragraph (2)(B), by inserting
21 “(which may be the Federal credit instrument)”
22 after “obligations”.

23 (c) SECURED LOANS.—Section 183 of title 23,
24 United States Code, is amended—

25 (1) in subsection (a)—

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1 (A) in paragraph (1)—

2 (i) by striking “of any project selected
3 under section 182.” at the end;

4 (ii) in subparagraphs (A) and (B), by
5 inserting “of any project selected under
6 section 182” after “costs” ; and

7 (iii) in subparagraph (B), by striking
8 the semicolon at the end and inserting a
9 period; and

10 (B) in paragraph (4)—

11 (i) by striking “funding” and insert-
12 ing “execution”; and

13 (ii) by striking “rating,” and all that
14 follows and inserting a period;

15 (2) in subsection (b)—

16 (A) by striking paragraph (2) and insert-
17 ing the following:

18 “(2) MAXIMUM AMOUNT.—The amount of the
19 secured loan shall not exceed the lesser of—

20 “(A) 33 percent of the reasonably antici-
21 pated eligible project costs; or

22 “(B) the amount of the senior project obli-
23 gations.”;

3-11

1 (B) in paragraph (3)(A)(i), by inserting
2 “that also secure the senior project obligations”
3 after “sources”; and

4 (C) in paragraph (4), by striking “market-
5 able”; and

6 (3) in subsection (c)—

7 (A) by striking paragraph (3);

8 (B) by redesignating paragraphs (4) and
9 (5) as paragraphs (3) and (4), respectively; and

10 (C) in paragraph (3) (as redesignated by
11 subparagraph (B))—

12 (i) in subparagraph (A), by striking
13 “during the 10 years”; and

14 (ii) in subparagraph (B)(ii), by strik-
15 ing “loan” and all that follows and insert-
16 ing “loan.”.

17 (d) LINES OF CREDIT.—Section 184 of title 23,
18 United States Code, is amended—

19 (1) in subsection (b)—

20 (A) in paragraph (3), by striking “interest,
21 any debt service reserve fund, and any other
22 available reserve” and inserting “interest (but
23 not including reasonably required financing re-
24 serves)”;;

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1 (B) in paragraph (4), by striking “market-
2 able United States Treasury securities as of the
3 date on which the line of credit is obligated”
4 and inserting “ United States Treasury securi-
5 ties as of the date of execution of the line of
6 credit agreement”; and

7 (C) in paragraph (5)(A)(i), by inserting
8 “that also secure the senior project obligations”
9 after “sources”; and
10 (2) in subsection (c)—

11 (A) in paragraph (2)—

12 (i) by striking “scheduled”;

13 (ii) by inserting “be scheduled to”
14 after “shall”; and

15 (iii) by striking “be fully repaid, with
16 interest,” and inserting “to conclude, with
17 full repayment of principal and interest,”;
18 and

19 (B) by striking paragraph (3).

20 (e) PROGRAM ADMINISTRATION.—Section 185 of title
21 23, United States Code, is amended to read as follows:

22 **“§ 185. Program administration**

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

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

4 “(c) SERVICER.—

5 “(1) IN GENERAL.—The Secretary may appoint
6 a financial entity to assist the Secretary in servicing
7 the Federal credit instruments.

8 “(2) DUTIES.—The servicer shall act as the
9 agent for the Secretary.

10 “(3) FEE.—The servicer shall receive a serv-
11 icing fee, subject to approval by the Secretary.

12 “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
13 retary may retain the services of expert firms, including
14 counsel, in the field of municipal and project finance to
15 assist in the underwriting and servicing of Federal credit
16 instruments.”.

17 “(f) FUNDING.—Section 188 of title 23, United States
18 Code, is amended to read as follows:

19 **“§ 188. Funding**

20 “(a) FUNDING.—

21 “(1) IN GENERAL.—There is authorized to be
22 appropriated from the Highway Trust Fund (other
23 than the Mass Transit Account) to carry out this
24 subchapter \$130,000,000 for each of fiscal years
25 2004 through 2009.

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1 “(2) COLLECTED FEES.—All fees collected
2 under this subchapter shall be made available to the
3 Secretary, without further appropriation, to carry
4 out this subchapter.

5 “(3) ADMINISTRATIVE COSTS.—Of amounts
6 made available under paragraph (1), the Secretary
7 may use for the administration of this subchapter
8 not more than \$2,000,000 for each of fiscal years
9 2004 through 2009.

10 “(4) AVAILABILITY.—Amounts made available
11 under paragraph (1) shall remain available until ex-
12 pended.

13 “(b) CONTRACT AUTHORITY.—

14 “(1) IN GENERAL.—Notwithstanding any other
15 provision of law, approval by the Secretary of a Fed-
16 eral credit instrument that uses funds made avail-
17 able under this subchapter shall be deemed to be ac-
18 ceptance by the United States of a contractual obli-
19 gation to fund the Federal credit investment.

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

23 “(g) REPEAL.—Section 189 of title 23, United States
24 code, is repealed.

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1 (h) CONFORMING AMENDMENTS.—The analysis for
2 chapter 1 of title 23, United States Code, is amended—

3 (1) by striking the item relating to section 185
4 and inserting the following:

“185. Program administration.”;

5 and

6 (2) by striking the item relating to section 189.

7 **SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRA-**
8 **TION PLANS AND INTERNATIONAL FUEL TAX**
9 **AGREEMENTS.**

10 (a) IN GENERAL.—Chapter 317 of title 49, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 **“§ 31708. Facilitation of international registration**
14 **plans and international fuel tax agree-**
15 **ments**

16 “The Secretary may provide assistance to any State
17 that is participating in the International Registration Plan
18 and International Fuel Tax Agreement, as provided in sec-
19 tions 31704 and 31705, respectively, and that serves as
20 a base jurisdiction for motor carriers that are domiciled
21 in Mexico, to assist the State with administrative costs
22 resulting from serving as a base jurisdiction for motor car-
23 riers from Mexico.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 chapter 317 of title 49, United States Code, is amended
3 by adding at the end the following:

“31708. Facilitation of international registration plans and international fuel
tax agreements.”.

4 **SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE**
5 **SOURCES TO SUPPORT THE HIGHWAY TRUST**
6 **FUND.**

7 (a) ESTABLISHMENT.—There is established a com-
8 mission to be known as the “National Commission on Fu-
9 ture Revenue Sources to Support the Highway Trust
10 Fund” (referred to in this section as the “Commission”).

11 (b) MEMBERSHIP.—

12 (1) COMPOSITION.—The Commission shall be
13 composed of 11 members, of whom—

14 (A) 3 members shall be appointed by the
15 President;

16 (B) 2 members shall be appointed by the
17 Speaker of the House of Representatives;

18 (C) 2 members shall be appointed by the
19 minority leader of the House of Representa-
20 tives;

21 (D) 2 members shall be appointed by the
22 majority leader of the Senate; and

23 (E) 2 members shall be appointed by the
24 minority leader of the Senate.

1 (2) QUALIFICATIONS.—Members appointed
2 under paragraph (1) shall have experience in—

3 (A) public finance;

4 (B) surface transportation program admin-
5 istration;

6 (C) management of organizations that use
7 surface transportation facilities;

8 (D) academic research into related issues;

9 or

10 (E) other activities that provide unique
11 perspectives on current and future requirements
12 for revenue sources to support the Highway
13 Trust Fund.

14 (3) DATE OF APPOINTMENTS.—The appoint-
15 ment of a member of the Commission shall be made
16 not later than 120 days after the date of establish-
17 ment of the Commission.

18 (4) TERMS.—A member shall be appointed for
19 the life of the Commission.

20 (5) VACANCIES.—A vacancy on the
21 Commission—

22 (A) shall not affect the powers of the Com-
23 mission; and

24 (B) shall be filled in the same manner as
25 the original appointment was made.

1 (6) INITIAL MEETING.—Not later than 30 days
2 after the date on which all members of the Commis-
3 sion have been appointed, the Commission shall hold
4 the initial meeting of the Commission.

5 (7) MEETINGS.—The Commission shall meet at
6 the call of the Chairperson.

7 (8) QUORUM.—A majority of the members of
8 the Commission shall constitute a quorum, but a
9 lesser number of members may hold hearings.

10 (9) CHAIRPERSON AND VICE CHAIRPERSON.—
11 The Commission shall select a Chairperson and Vice
12 Chairperson from among the members of the Com-
13 mission.

14 (c) DUTIES.—

15 (1) IN GENERAL.—The Commission shall—

16 (A) conduct a comprehensive study of al-
17 ternatives to replace or to supplement the fuel
18 tax as the principal revenue source to support
19 the Highway Trust Fund over at least the next
20 30 years;

21 (B) conduct the study in a manner that
22 builds on—

23 (i) findings, conclusions, and rec-
24 ommendations of the recent study con-
25 ducted by the Transportation Research

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1 Board on alternatives to the fuel tax to
2 support highway program financing; and

3 (ii) other relevant prior research;

4 (C) consult with the Secretary and the
5 Secretary of the Treasury in conducting the
6 study to ensure that the views of the Secre-
7 taries concerning essential attributes of High-
8 way Trust Fund revenue alternatives are con-
9 sidered;

10 (D) consult with representatives of State
11 Departments of Transportation and other key
12 interested stakeholders in conducting the study
13 to ensure that—

14 (i) the views of the stakeholders on al-
15 ternative revenue sources to support State
16 transportation improvement programs are
17 considered; and

18 (ii) any recommended Federal financ-
19 ing strategy takes into account State fi-
20 nancial requirements; and

21 (E) based on the study, make specific rec-
22 ommendations regarding—

23 (i) actions that should be taken to de-
24 velop alternative revenue sources to sup-
25 port the Highway Trust Fund; and

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1 (ii) the time frame for taking those
2 actions.

3 (2) SPECIFIC MATTERS.—The study shall ad-
4 dress specifically—

5 (A) the advantages and disadvantages of
6 alternative revenue sources to meet anticipated
7 Federal surface transportation financial re-
8 quirements;

9 (B) the time frame within which actions
10 must be taken to transition from the fuel tax to
11 alternative revenue sources to support the
12 Highway Trust Fund;

13 (C) recommendations concerning the most
14 promising revenue sources to support long-term
15 Federal surface transportation financing re-
16 quirements;

17 (D) development of a broad transition
18 strategy to move from the current tax base to
19 new funding mechanisms, including the time
20 frame for various components of the transition
21 strategy;

22 (E) recommendations for additional re-
23 search that may be needed to implement rec-
24 ommended alternatives; and

3-21

1 (F) the extent to which revenues should re-
2 flect the relative use of the highway system.

3 (3) RELATED WORK.—To the maximum extent
4 practicable, the study shall build on related work
5 that has been done by—

6 (A) the Secretary of Transportation;

7 (B) the Secretary of Energy;

8 (C) the Transportation Research Board;

9 and

10 (D) other entities and persons.

11 (4) FACTORS.—In developing recommendations
12 under this subsection, the Commission shall
13 consider—

14 (A) the ability to generate sufficient reve-
15 nues to meet anticipated long-term surface
16 transportation financing needs;

17 (B) the roles of the various levels of gov-
18 ernment and the private sector in meeting fu-
19 ture surface transportation financing needs;

20 (C) administrative costs (including enforce-
21 ment costs) to implement each option;

22 (D) the expected increase in non-taxed
23 fuels;

24 (E) the likely technological advances that
25 could ease implementation of each option;

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1 (F) the equity and economic efficiency of
2 each option;

3 (G) the flexibility of different options to
4 allow various pricing alternatives to be imple-
5 mented; and

6 (H) potential compatibility issues with
7 States tax mechanisms under each alternative.

8 (5) REPORT AND RECOMMENDATIONS.—Not
9 later than September 30, 2007, the Commission
10 shall submit to Congress a final report that
11 contains—

12 (A) a detailed statement of the findings
13 and conclusions of the Commission; and

14 (B) the recommendations of the Commis-
15 sion for such legislation and administrative ac-
16 tions as the Commission considers appropriate.

17 (d) POWERS.—

18 (1) HEARINGS.—The Commission may hold
19 such hearings, meet and act at such times and
20 places, take such testimony, and receive such evi-
21 dence as the Commission considers advisable to
22 carry out this section.

23 (2) INFORMATION FROM FEDERAL AGENCIES.—

24 (A) IN GENERAL.—The Commission may
25 secure directly from a Federal agency such in-

1 formation as the Commission considers nec-
2 essary to carry out this section.

3 (B) PROVISION OF INFORMATION.—On re-
4 quest of the Chairperson of the Commission,
5 the head of the agency shall provide the infor-
6 mation to the Commission.

7 (3) POSTAL SERVICES.—The Commission may
8 use the United States mails in the same manner and
9 under the same conditions as other agencies of the
10 Federal Government.

11 (4) DONATIONS.—The Commission may accept,
12 use, and dispose of donations of services or property.

13 (e) COMMISSION PERSONNEL MATTERS.—

14 (1) MEMBERS.—A member of the Commission
15 shall serve without pay but shall be allowed travel
16 expenses, including per diem in lieu of subsistence,
17 at rates authorized for an employee of an agency
18 under subchapter I of chapter 57 of title 5, United
19 States Code, while away from the home or regular
20 place of business of the member in the performance
21 of the duties of the Commission.

22 (2) CONTRACTOR.—The Commission may con-
23 tract with an appropriate organization, agency, or
24 entity to conduct the study required under this sec-

1 tion, under the strategic guidance of the Commis-
2 sion.

3 (3) ADMINISTRATIVE SUPPORT.—On the re-
4 quest of the Commission, the Administrator of the
5 Federal Highway Administration shall provide to the
6 Commission, on a reimbursable basis, the adminis-
7 trative support and services necessary for the Com-
8 mission to carry out the duties of the Commission
9 under this section.

10 (4) DETAIL OF DEPARTMENT PERSONNEL.—

11 (A) IN GENERAL.—On the request of the
12 Commission, the Secretary may detail, on a re-
13 imbursable basis, any of the personnel of the
14 Department to the Commission to assist the
15 Commission in carrying out the duties of the
16 Commission under this section.

17 (B) CIVIL SERVICE STATUS.—The detail of
18 the employee shall be without interruption or
19 loss of civil service status or privilege.

20 (5) COOPERATION.—The staff of the Secretary
21 shall cooperate with the Commission in the study re-
22 quired under this section, including providing such
23 nonconfidential data and information as are nec-
24 essary to conduct the study.

25 (f) RELATIONSHIP TO OTHER LAWS.—

3-25

1 (1) IN GENERAL.—The Federal Advisory Com-
2 mittee Act (5 U.S.C. App.) shall not apply to the
3 Commission.

4 (2) APPLICABILITY OF TITLE 23.—

5 (A) IN GENERAL.—Except as provided in
6 subparagraphs (B) and (C), funds made avail-
7 able to carry out this section shall be available
8 for obligation in the same manner as if the
9 funds were apportioned under chapter 1 of title
10 23, United States Code.

11 (B) FEDERAL SHARE.—The Federal share
12 of the cost of the study and the Commission
13 under this section shall be 100 percent.

14 (C) AVAILABILITY.—Funds made available
15 to carry out this section shall remain available
16 until expended.

17 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated from the Highway Trust
19 Fund (other than the Mass Transit Account) to carry out
20 this section \$3,000,000 for fiscal year 2004.

21 (h) TERMINATION.—

22 (1) IN GENERAL.—The Commission shall termi-
23 nate on the date that is 180 days after the date on
24 which the Commission submits the report of the
25 Commission under subsection (c)(5).

1 (2) RECORDS.—Not later than the termination
2 date for the Commission, all records and papers of
3 the Commission shall be delivered to the Adminis-
4 trator of General Services for deposit in the Na-
5 tional Archives.

6 **SEC. 1306. HIGHWAY USE TAX EVASION PROJECTS.**

7 (a) PROJECTS.—Section 143(b) of title 23, United
8 States Code, is amended—

9 (1) in paragraph (2), by inserting before the pe-
10 riod at the end the following: “, except that, for each
11 of fiscal years 2004 through 2009, \$2,000,000 shall
12 be available only to carry out intergovernmental en-
13 forcement efforts, including research and training”;

14 (2) in paragraph (3), by inserting before the pe-
15 riod at the end the following: “, except as otherwise
16 provided in this section”;

17 (3) in paragraph (4)—

18 (A) in subparagraph (F), by striking
19 “and” at the end;

20 (B) in subparagraph (G), by striking the
21 period at the end and inserting a semicolon;
22 and

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

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1 “(H) to support efforts between States and
2 Indian tribes to address issues relating to State
3 motor fuel taxes; and

4 “(I) to analyze and implement programs to
5 reduce tax evasion associated with foreign im-
6 ported fuel.”; and

7 (4) by adding at the end the following:

8 “(9) REPORTS.—

9 “(A) IN GENERAL.—The Commissioner of
10 the Internal Revenue Service and participating
11 States shall submit to the Secretary annual re-
12 ports that describe the projects, examinations,
13 and criminal investigations funded by and car-
14 ried out under this section.

15 “(B) YIELD.—The reports shall specify the
16 annual yield estimated for each project funded
17 under this section.”.

18 (b) EXCISE SUMMARY TERMINAL ACTIVITY REPORT-
19 ING SYSTEM.—Section 143(c) of title 23, United States
20 Code, is amended—

21 (1) in paragraph (1)—

22 (A) by striking “Not later than August 1,
23 1998,” and inserting “Not later than 90 days
24 after the date of enactment of the [Safe, Ac-

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1 countable, Flexible, and Efficient Transpor-
2 tation Equity Act of 2003】,”;

3 (B) by striking “development” and insert-
4 ing “completion, operation,”;

5 (C) by striking “an excise fuel reporting
6 system” and inserting “the excise summary ter-
7 minal activity reporting system”; and

8 (D) by striking “(in this subsection re-
9 ferred to as the ‘system’)”;

10 (2) in paragraph (2)—

11 (A) by striking “the system” each place it
12 appears and inserting “the excise summary ter-
13 minal activity reporting system”;

14 (B) in subparagraph (A), by striking “de-
15 velop” and inserting “complete, operate,”;

16 (C) in subparagraph (B), by striking
17 “and” at the end;

18 (D) in subparagraph (C), by striking the
19 period at the end and inserting “; and”; and

20 (E) by adding at the end the following:

21 “(D) the Commissioner of the Internal
22 Revenue Service shall submit to the Secretary,
23 and the Secretary shall approve, a budget and
24 project plan for the completion, operation, and

3–29

1 maintenance of the excise summary terminal
2 activity reporting system.”; and

3 (3) by striking paragraph (3) and inserting the
4 following:

5 “(3) FUNDING.—Of the amounts made avail-
6 able to carry out this section for each of fiscal years
7 2004 through 2009, the Secretary shall make funds
8 available to the Internal Revenue Service to com-
9 plete, operate, and maintain the excise summary ter-
10 minal activity reporting system in accordance with
11 this subsection.”.

12 (c) REGISTRATION SYSTEM AND ELECTRONIC DATA-
13 BASE.—Section 143 of title 23, United States Code, is
14 amended by adding at the end the following:

15 “(d) PIPELINE, VESSEL, AND BARGE REGISTRATION
16 SYSTEM.—

17 “(1) IN GENERAL.—Not later than 90 days
18 after the date of enactment of the **【Safe, Account-
19 able, Flexible, and Efficient Transportation Equity
20 Act of 2003】**, the Secretary shall enter into a
21 memorandum of understanding with the Commis-
22 sioner of the Internal Revenue Service for the pur-
23 poses of the development, operation, and mainte-
24 nance of a registration system for pipelines, vessels,

1 and barges, and operators of the pipelines, vessels,
2 and barges, that make bulk transfers of taxable fuel.

3 “(2) ELEMENTS OF MEMORANDUM OF UNDER-
4 STANDING.—The memorandum of understanding
5 shall provide that—

6 “(A) the Internal Revenue Service shall de-
7 velop, operate, and maintain the registration
8 system through contracts;

9 “(B) the Commissioner of the Internal
10 Revenue Service shall submit to the Secretary,
11 and the Secretary shall approve, a budget and
12 project plan for development, operation, and
13 maintenance of the registration system;

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

16 “(D) the registration system shall be made
17 available for use by appropriate State and Fed-
18 eral revenue, tax, and law enforcement authori-
19 ties, subject to section 6103 of the Internal
20 Revenue Code of 1986.

21 “(3) FUNDING.—Of the amounts made avail-
22 able to carry out this section for each of fiscal years
23 2004 through 2009, the Secretary shall make funds
24 available to the Internal Revenue Service to com-
25 plete, operate, and maintain in accordance with this

1 subsection the registration system described in para-
2 graph (1).

3 “(e) HEAVY VEHICLE USE TAX PAYMENT DATA-
4 BASE.—

5 “(1) IN GENERAL.—Not later than 90 days
6 after the date of enactment of [Safe, Accountable,
7 Flexible, and Efficient Transportation Equity Act of
8 2003], the Secretary shall enter into a memo-
9 randum of understanding with the Commissioner of
10 the Internal Revenue Service for the purposes of the
11 development, operation, and maintenance of an elec-
12 tronic database for heavy vehicle highway use tax
13 payments.

14 “(2) ELEMENTS OF MEMORANDUM OF UNDER-
15 STANDING.—The memorandum of understanding
16 shall provide that—

17 “(A) the Internal Revenue Service shall de-
18 velop, operate, and maintain the electronic
19 database through contracts;

20 “(B) the Commissioner of the Internal
21 Revenue Service shall submit and the Secretary
22 shall approve a budget and project plan for es-
23 tablishment, operation, and maintenance of the
24 electronic database;

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

3 “(D) the electronic database shall be made
4 available for use by appropriate State and Fed-
5 eral revenue, tax, and law enforcement authori-
6 ties, subject to section 6103 of the Internal
7 Revenue Code of 1986.

8 “(3) FUNDING.—Of the amounts made avail-
9 able to carry out this section for each of fiscal years
10 2004 through 2009, the Secretary shall make funds
11 available to the Internal Revenue Service to estab-
12 lish, operate, and maintain in accordance with this
13 subsection the electronic database described in para-
14 graph (1).

15 “(f) REPORTS.—Not later than March 30 and Sep-
16 tember 30 of each year, the Internal Revenue Service shall
17 submit to the Secretary reports on the status of the Inter-
18 nal Revenue Service projects funded under this section re-
19 lating to—

20 “(1) the excise summary terminal activity re-
21 porting system under subsection (c);

22 “(2) the pipeline, vessel, and barge registration
23 system under subsection (d); and

24 “(3) the heavy vehicle use tax electronic data-
25 base under subsection (e).”.

1 (d) ALLOCATIONS.—Of the amounts authorized to be
2 appropriated under section 1101(a)(14) of the **Safe, Ac-**
3 **countable, Flexible, and Efficient Transportation Equity**
4 **Act of 2003** for Highway Use Tax Evasion Projects—

5 (1) for each of fiscal years 2004 through 2009,
6 \$4,500,000 shall be allocated to the States;

7 (2) for fiscal year 2004, \$20,050,000 shall be
8 allocated to the Internal Revenue Service, of which
9 \$10,500,000 shall be used for the excise summary
10 terminal activity reporting system;

11 (3) for each of fiscal years 2005 and 2006,
12 \$48,000,000 shall be allocated to the Internal Rev-
13 enue Service, of which \$4,500,000 shall be used for
14 the excise summary terminal activity reporting sys-
15 tem;

16 (4) for fiscal year 2007, \$38,000,000 shall be
17 allocated to the Internal Revenue Service, of which
18 \$4,500,000 shall be used for the excise summary
19 terminal activity reporting system; and

20 (5) for each of fiscal years 2008 and 2009,
21 \$4,500,000 shall be allocated to the Internal Rev-
22 enue Service, which shall be used for the excise sum-
23 mary terminal activity reporting system.

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1 “(i) an intersection safety improve-
2 ment;

3 “(ii) pavement and shoulder widening
4 (including addition of a passing lane to
5 remedy an unsafe condition);

6 “(iii) installation of rumble strips or
7 another warning device;

8 “(iv) installation of a skid-resistant
9 surface at an intersection or other location
10 with a high frequency of accidents;

11 “(v) an improvement for pedestrian or
12 bicyclist safety;

13 “(vi) construction of a railway-high-
14 way crossing safety feature or the conduct
15 of model traffic enforcement activity at a
16 railway-highway crossing;

17 “(vii) construction of a traffic calming
18 feature;

19 “(viii) elimination of a roadside obsta-
20 cle;

21 “(ix) improvement of highway signage
22 and pavement markings;

23 “(x) installation of a priority control
24 system for emergency vehicles at signalized
25 intersections;

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1 “(xi) installation of a traffic control or
2 other warning device at a location with
3 high accident potential;

4 “(xii) safety-conscious planning;

5 “(xiii) improvement in the collection
6 and analysis of crash data;

7 “(xiv) planning, equipment, oper-
8 ational activities, or traffic enforcement ac-
9 tivities (including police assistance) relat-
10 ing to workzone safety;

11 “(xv) installation of guardrails, bar-
12 riers, and crash attenuators;

13 “(xvi) the addition or retrofitting of
14 structures or other measures to eliminate
15 or reduce accidents involving vehicles and
16 wildlife; or

17 “(xvii) installation and maintenance
18 of signs (including fluorescent, yellow-
19 green signs) at pedestrian-bicycle crossings
20 and in school zones.

21 “(3) SAFETY PROJECT UNDER ANY OTHER SEC-
22 TION.—

23 “(A) IN GENERAL.—The term ‘safety
24 project under any other section’ means a

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1 project carried out for the purpose of safety
2 under any other section of this title.

3 “(B) INCLUSION.—The term ‘safety
4 project under any other section’ includes a
5 project to—

6 “(i) promote the awareness of the
7 public and educate the public concerning
8 highway safety matters; or

9 “(ii) enforce highway safety laws.

10 “(4) STATE HIGHWAY SAFETY IMPROVEMENT
11 PROGRAM.—The term ‘State highway safety im-
12 provement program’ means projects or strategies in-
13 cluded in the State strategic highway safety plan
14 carried out as part of the State transportation im-
15 provement program under section 135(f).

16 “(5) STATE STRATEGIC HIGHWAY SAFETY
17 PLAN.—The term ‘State strategic highway safety
18 plan’ means a plan developed by the State transpor-
19 tation department that—

20 “(A) is developed after consultation with—

21 “(i) a highway safety representative of
22 the Governor of the State;

23 “(ii) regional transportation planning
24 organizations, if any;

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1 “(iii) representatives of major modes
2 of transportation;

3 “(iv) local traffic enforcement offi-
4 cials;

5 “(v) persons responsible for admin-
6 istering section 130 at the State level;

7 “(vi) representatives conducting Oper-
8 ation Lifesaver;

9 “(vii) representatives conducting a
10 motor carrier safety program under section
11 31104 or 31107 of title 49;

12 “(viii) motor vehicle administration
13 agencies; and

14 “(ix) other major State and local safe-
15 ty stakeholders;

16 “(B) analyzes and makes effective use of
17 State, regional, or local crash data;

18 “(C) addresses engineering, management,
19 operation, education, enforcement, and emer-
20 gency services elements of highway safety as
21 key factors in evaluating highway projects;

22 “(D) considers safety needs of, and high-
23 fatality segments of, public roads;

24 “(E) considers the results of State, re-
25 gional, or local transportation and highway

1 safety planning processes in existence as of the
2 date of enactment of this section;

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

5 “(G) is approved by the State; and

6 “(H) is consistent with the requirements of
7 section 135(f).

8 “(b) PROGRAM.—

9 “(1) IN GENERAL.—The Secretary shall carry
10 out a highway safety improvement program.

11 “(2) PURPOSE.—The purpose of the highway
12 safety improvement program shall be to achieve a
13 significant reduction in traffic fatalities and serious
14 injuries on public roads.

15 “(c) ELIGIBILITY.—

16 “(1) IN GENERAL.—To receive funds under this
17 section, a State shall have in effect a State highway
18 safety improvement program under which the
19 State—

20 “(A) develops and implements a State
21 strategic highway safety plan that identifies and
22 analyzes highway safety problems and opportu-
23 nities as provided in paragraph (2);

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1 “(B) produces a program of projects or
2 strategies to reduce identified safety problems;
3 and

4 “(C) evaluates the plan on a regular basis
5 to ensure the accuracy of the data and priority
6 of proposed improvements.

7 “(2) IDENTIFICATION AND ANALYSIS OF HIGH-
8 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As
9 part of the State strategic highway safety plan, a
10 State shall—

11 “(A) based on the analysis required by
12 paragraph (1)(A), have in place a crash data
13 system with the ability to perform safety prob-
14 lem identification and countermeasure analysis;

15 “(B) identify hazardous locations, sections,
16 and elements (including roadside obstacles, rail-
17 way-highway crossing needs, and unmarked or
18 poorly marked roads) that constitute a danger
19 to motorists, bicyclists, pedestrians, and other
20 highway users;

21 “(C) adopt strategic and performance-
22 based goals that—

23 “(i) address traffic safety, including
24 behavioral and infrastructure problems and
25 opportunities on all public roads;

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1 “(ii) focus resources on areas of
2 greatest need; and

3 “(iii) are coordinated with other State
4 highway safety programs;

5 “(D) advance the capabilities of the State
6 for traffic records data collection, analysis, and
7 integration with other sources of safety data
8 (such as road inventories) in a manner that—

9 “(i) complements the State highway
10 safety program under chapter 4 and the
11 commercial vehicle safety plan under sec-
12 tion 31102 of title 49;

13 “(ii) includes all public roads; and

14 “(iii) identifies hazardous locations,
15 sections, and elements on public roads that
16 constitute a danger to motorists, bicyclists,
17 and pedestrians;

18 “(E)(i) determine priorities for the correc-
19 tion of hazardous road locations, sections, and
20 elements (including railway-highway crossing
21 improvements), as identified through crash data
22 analysis;

23 “(ii) identify opportunities for preventing
24 the development of such hazardous conditions;
25 and

1 “(iii) establish and implement a schedule
2 of highway safety improvement projects for haz-
3 ard correction and hazard prevention; and

4 “(F)(i) establish an evaluation process to
5 analyze and assess results achieved by highway
6 safety improvement projects carried out in ac-
7 cordance with procedures and criteria estab-
8 lished by this section; and

9 “(ii) use the information obtained under
10 clause (i) in setting priorities for highway safety
11 improvement projects.

12 “(d) ELIGIBLE PROJECTS.—

13 “(1) IN GENERAL.—A State may obligate funds
14 apportioned to the State under this section to carry
15 out—

16 “(A) any highway safety improvement
17 project on any public road or publicly owned bi-
18 cycle or pedestrian pathway or trail; or

19 “(B) as provided in subsection (e), for
20 other safety projects.

21 “(2) USE OF OTHER FUNDING FOR SAFETY.—

22 “(A) EFFECT OF SECTION.—Nothing in
23 this section prohibits the use of funds made
24 available under other provisions of this title for
25 highway safety improvement projects.

1 “(B) USE OF OTHER FUNDS.—States are
2 encouraged to address the full scope of their
3 safety needs and opportunities by using funds
4 made available under other provisions of this
5 title (except a provision that specifically pro-
6 hibits that use).

7 “(e) FLEXIBLE FUNDING FOR STATES WITH A STRA-
8 TEGIC HIGHWAY SAFETY PLAN.—

9 “(1) IN GENERAL.—To further the implementa-
10 tion of a State strategic highway safety plan, a State
11 may use up to 25 percent of the amount of funds
12 made available under this section for a fiscal year to
13 carry out safety projects under any other section as
14 provided in the State strategic highway safety plan.

15 “(2) OTHER TRANSPORTATION AND HIGHWAY
16 SAFETY PLANS.—Nothing in this subsection requires
17 a State to revise any State process, plan, or program
18 in effect on the date of enactment of this section.

19 “(f) REPORTS.—

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

22 “(A) describes progress being made to im-
23 plement highway safety improvement projects
24 under this section;

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1 “(B) assesses the effectiveness of those im-
2 provements; and

3 “(C) describes the extent to which the im-
4 provements funded under this section contribute
5 to the goals of—

6 “(i) reducing the number of fatalities
7 on roadways;

8 “(ii) reducing the number of roadway-
9 related injuries;

10 “(iii) reducing the occurrences of
11 roadway-related accidents; and

12 “(iv) mitigating the consequences of
13 roadway-related accidents.

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

17 “(g) FEDERAL SHARE OF HIGHWAY SAFETY IM-
18 PROVEMENT PROJECTS.—The Federal share of the cost
19 of a highway safety improvement project carried out with
20 funds made available under this section shall be 90 per-
21 cent.”.

22 (2) ALLOCATIONS OF APPORTIONED FUNDS.—
23 Section 133(d) of title 23, United States Code, is
24 amended—

25 (A) by striking paragraph (1);

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1 (B) by redesignating paragraphs (2)
2 through (5) as paragraphs (1) through (4), re-
3 spectively;

4 (C) in paragraph (2) (as redesignated by
5 subparagraph (B))—

6 (i) in subparagraph (A)—

7 (I) in the first sentence—

8 (aa) by striking “subpara-
9 graphs (C) and (D)” and insert-
10 ing “subparagraph (C)”;

11 (bb) by striking “62.5 per-
12 cent” and inserting “55.5 per-
13 cent”; and

14 (cc) by striking “80 per-
15 cent” and inserting “90 per-
16 cent”; and

17 (II) in the second sentence, by
18 striking “37.5 percent” and inserting
19 “44.5 percent”;

20 (ii) by striking subparagraph (C);

21 (iii) by redesignating subparagraphs
22 (D) and (E) as subparagraphs (C) and
23 (D), respectively; and

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1 (iv) in subparagraph (C) (as redesignig-
2 nated by subparagraph (D)), by adding a
3 period at the end; and

4 (D) in paragraph (4)(A) (as redesignated
5 by subparagraph (B)), by striking “paragraph
6 (2)” and inserting “paragraph (1)”.

7 (3) CONFORMING AMENDMENTS.—

8 (A) Chapter 1 of title 23, United States
9 Code, is amended—

10 (i) by striking section 152;

11 (ii) in the analysis, by striking the
12 item relating to section 152; and

13 (iii) by inserting after the item relat-
14 ing to section 149 the following:

“150. Highway safety improvement program.”.

15 (B) Sections 154, 164, and 409 of title 23,
16 United States Code, are amended by striking
17 “152” each place it appears and inserting
18 “150”.

19 (b) APPORTIONMENT OF HIGHWAY SAFETY IM-
20 PROVEMENT PROGRAM FUNDS.—Section 104(b) of title
21 23, United States Code, is amended—

22 (1) in the matter preceding paragraph (1), by
23 inserting after “Improvement program,” the fol-
24 lowing: “the highway safety improvement program,”;
25 and

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1 (2) by adding at the end the following:

2 “(5) HIGHWAY SAFETY IMPROVEMENT PRO-
3 GRAM.—

4 “(A) IN GENERAL.—For the highway safe-
5 ty improvement program, in accordance with
6 the following formula:

7 “(i) 25 percent of the apportionments
8 in the ratio that—

9 “(I) the total lane miles of Fed-
10 eral-aid highways in each State; bears
11 to

12 “(II) the total lane miles of Fed-
13 eral-aid highways in all States.

14 “(ii) 40 percent of the apportionments
15 in the ratio that—

16 “(I) the total vehicle miles trav-
17 eled on lanes on Federal-aid highways
18 in each State; bears to

19 “(II) the total vehicle miles trav-
20 eled on lanes on Federal-aid highways
21 in all States.

22 “(iii) 35 percent of the appor-
23 tionments in the ratio that—

24 “(I) the estimated tax payments
25 attributable to highway users in each

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1 State paid into the Highway Trust
2 Fund (other than the Mass Transit
3 Account) in the latest fiscal year for
4 which data are available; bears to

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

11 “(B) MINIMUM APPORTIONMENT.—Not-
12 withstanding subparagraph (A), each State
13 shall receive a minimum of $\frac{1}{2}$ of 1 percent of
14 the funds apportioned under this paragraph.”.

15 (c) ELIMINATION OF HAZARDS RELATING TO HIGH-
16 WAY FACILITIES.—

17 (1) FUNDS FOR PROTECTIVE DEVICES.—Sec-
18 tion 130(e) of title 23, United States Code, is
19 amended—

20 (A) by striking the first sentence and in-
21 serting the following:

22 “(1) IN GENERAL.—For each fiscal year, at
23 least \$100,000,000 of the funds authorized and ex-
24 pended under section 150 shall be available for the

4-16

1 installation of protective devices at railway-highway
2 crossings.”; and

3 (B) by striking “Sums authorized” and in-
4 serting the following:

5 “(2) OBLIGATION.—Sums authorized”.

6 (2) BIENNIAL REPORTS TO CONGRESS.—Sec-
7 tion 130(g) of title 23, United States Code, is
8 amended in the third sentence—

9 (A) by inserting “and the Committee on
10 Commerce, Science, and Transportation,” after
11 “Public Works”; and

12 (B) by striking “not later than April 1 of
13 each year” and inserting “every other year”.

14 (3) EXPENDITURE OF FUNDS.—Section 130 of
15 title 23, United States Code, is amended by adding
16 at the end the following:

17 “(k) EXPENDITURE OF FUNDS.—Funds made avail-
18 able to carry out this section shall be available for expendi-
19 ture on compilation and analysis of data in support of ac-
20 tivities carried out under subsection (g).”.

21 (d) TRANSITION.—

22 (1) IMPLEMENTATION.—Except as provided in
23 paragraph (2), to qualify for funding under section
24 150 of title 23, United States Code (as added by
25 subsection (a)), a State shall develop and implement

1 a State strategic highway safety plan as required by
2 subsection (c) of that section not later than 1 year
3 after the date of enactment of this Act.

4 (2) INTERIM PERIOD.—

5 (A) IN GENERAL.—Before the date that is
6 1 year after the date of enactment of this Act
7 and until the date on which a State develops
8 and implements a State strategic highway safe-
9 ty plan, a State may obligate funds apportioned
10 to the State under this section for projects that
11 were eligible for funding under sections 130
12 and 152 of title 23, United States Code, as in
13 effect on the day before the date of enactment
14 of this Act.

15 (B) NO STRATEGIC HIGHWAY SAFETY
16 PLAN.—If a State has not developed a strategic
17 highway safety plan by the date that is 1 year
18 after the date of enactment of this Act, but
19 demonstrates to the satisfaction of the Sec-
20 retary that progress is being made toward de-
21 veloping and implementing such a plan, the
22 State may continue to obligate funds appor-
23 tioned to the State under this section for
24 projects that were eligible for funding under
25 sections 130 and 152 of title 23, United States

1 Code, as in effect on the day before the date of
2 enactment of this Act.

3 **SEC. 1402. OPERATION LIFESAVER.**

4 Section 104(d)(1) of title 23, United States Code, is
5 amended—

6 (1) by striking “subsection (b)(3)” and insert-
7 ing “subsection (b)(5)”; and

8 (2) by striking “\$500,000” and inserting
9 “\$600,000”.

10 **SEC. 1403. LICENSE SUSPENSION.**

11 Section 164(a) of title 23, United States Code, is
12 amended by striking paragraph (3) and inserting the fol-
13 lowing:

14 “(3) LICENSE SUSPENSION.—The term ‘license
15 suspension’ means—

16 “(A) the suspension of all driving privi-
17 leges of an individual for the duration of the
18 suspension period; or

19 “(B) a combination of suspension of all
20 driving privileges of an individual for the first
21 90 days of the suspension period, followed by
22 reinstatement of limited driving privileges re-
23 quiring the individual to operate only motor ve-
24 hicles equipped with an ignition interlock sys-
25 tem or other device approved by the Secretary

1 during the remainder of the suspension pe-
2 riod.”.

3 **SEC. 1404. BUS AXLE WEIGHT EXEMPTION.**

4 Section 1023 of the Intermodal Surface Transpor-
5 tation Efficiency Act of 1991 (23 U.S.C. 127 note; 105
6 Stat. 1951) is amended by striking subsection (h) and in-
7 serting the following:

8 “(h) OVER-THE-ROAD BUS AND PUBLIC TRANSIT
9 VEHICLE EXEMPTION.—

10 “(1) IN GENERAL.—The second sentence of sec-
11 tion 127 of title 23, United States Code (relating to
12 axle weight limitations for vehicles using the Dwight
13 D. Eisenhower System of Interstate and Defense
14 Highways), shall not apply to—

15 “(A) any over-the-road bus (as defined in
16 section 301 of the Americans With Disabilities
17 Act of 1990 (42 U.S.C. 12181)); or

18 “(B) any vehicle that is regularly and ex-
19 clusively used as an intrastate public agency
20 transit passenger bus.

21 “(2) STATE ACTION.—No State or political sub-
22 division of a State, or any political authority of 2 or
23 more States, shall impose any axle weight limitation
24 on any vehicle described in paragraph (1) in any
25 case in which such a vehicle is using the Dwight D.

1 Eisenhower System of Interstate and Defense High-
2 ways.”.

3 **SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.**

4 (a) IN GENERAL.—Setion 147 of title 23, United
5 States Code, is amended to read as follows:

6 **“§ 147. Safe routes to schools program**

7 “(a) DEFINITIONS.—In this section:

8 “(1) PRIMARY SCHOOL.—The term ‘primary
9 school’ means a school that provides education to
10 children in any of grades kindergarten through 6.

11 “(2) PROGRAM.—The term ‘program’ means
12 the safe routes to schools program established under
13 subsection (b).

14 “(3) VICINITY OF A SCHOOL.—The term ‘vicin-
15 ity of a school’ means the area within 1 mile of a
16 primary school.

17 “(b) ESTABLISHMENT.—The Secretary shall estab-
18 lish and carry out a safe routes to school program for the
19 benefit of children in primary schools in accordance with
20 this section.

21 “(c) PURPOSES.—The purposes of the program shall
22 be—

23 “(1) to enable and to encourage children to
24 walk and bicycle to school;

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1 “(2) to encourage a healthy and active lifestyle
2 by making walking and bicycling to school safer and
3 more appealing transportation alternatives; and

4 “(3) to facilitate the planning, development,
5 and implementation of projects and activities that
6 will improve safety in the vicinity of schools.

7 “(d) ELIGIBLE RECIPIENTS.—A State shall use
8 amounts apportioned under this section to provide finan-
9 cial assistance to State, local, and regional agencies that
10 demonstrate an ability to meet the requirements of this
11 section.

12 “(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

13 “(1) INFRASTRUCTURE-RELATED PROJECTS.—

14 “(A) IN GENERAL.—Amounts apportioned
15 to a State under this section may be used for
16 the planning, design, and construction of infra-
17 structure-related projects to encourage walking
18 and bicycling to school, including—

19 “(i) sidewalk improvements;

20 “(ii) traffic calming and speed reduc-
21 tion improvements;

22 “(iii) pedestrian and bicycle crossing
23 improvements;

24 “(iv) on-street bicycle facilities;

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1 “(v) off-street bicycle and pedestrian
2 facilities;

3 “(vi) secure bicycle parking facilities;
4 and

5 “(vii) traffic signal improvements.

6 “(B) LOCATION OF PROJECTS.—Infra-
7 structure-related projects under paragraph (1)
8 may be carried out on—

9 “(i) any public road on the Federal-
10 aid highway system in the vicinity of a
11 school; or

12 “(ii) any bicycle or pedestrian path-
13 way or trail in the vicinity of a school.

14 “(2) BEHAVIORAL ACTIVITIES.—

15 “(A) IN GENERAL.—In addition to projects
16 described in paragraph (1), amounts appor-
17 tioned to a State under this section may be
18 used for behavioral activities to encourage walk-
19 ing and bicycling to school, including—

20 “(i) public awareness campaigns and
21 outreach to press and community leaders;

22 “(ii) traffic education and enforce-
23 ment in the vicinity of schools; and

24 “(iii) student sessions on bicycle and
25 pedestrian safety, health, and environment.

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1 “(B) ALLOCATION.—Of the amounts ap-
2 portioned to a State under this section for a fis-
3 cal year, not less than 10 percent shall be used
4 for behavioral activities under this paragraph.

5 “(f) FUNDING.—

6 “(1) SET ASIDE.—Before apportioning amounts
7 to carry out section 150 for a fiscal year, the Sec-
8 retary shall set aside and use \$50,000,000 to carry
9 out this section.

10 “(2) APPORTIONMENT.—Amounts made avail-
11 able to carry out this section shall be apportioned to
12 States in accordance with section 104(b)(5).

13 “(3) ADMINISTRATION OF AMOUNTS.—Amounts
14 apportioned to a State under this section shall be
15 administered by the State transportation depart-
16 ment.

17 “(4) FEDERAL SHARE.—The Federal share of
18 the cost of a project or activity funded under this
19 section shall be 90 percent.

20 “(5) PERIOD OF AVAILABILITY.—Notwith-
21 standing section 118(b)(2), amounts apportioned
22 under this section shall remain available until ex-
23 pended.”.

24 (b) CONFORMING AMENDMENTS.—The analysis for
25 chapter 1 of title 23, United States Code is amended by

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- 1 striking the item relating to section 147 and inserting the
- 2 following:

“147. Safe routes to school program.”

1 **Subtitle E—Environmental**
2 **Planning and Review**
3 **CHAPTER 1—TRANSPORTATION**
4 **PLANNING**

5 **SEC. 1501. INTEGRATION OF NATURAL RESOURCE CON-**
6 **CERNS INTO STATE AND METROPOLITAN**
7 **TRANSPORTATION PLANNING.**

8 (a) METROPOLITAN PLANNING.—Section 134(f) of
9 title 23, United States Code, is amended—

10 (1) in paragraph (1)—

11 (A) in subparagraph (D)—

12 (i) by inserting after “environment”
13 the following: “(including the protection of
14 habitat, water quality, and agricultural and
15 forest land, while minimizing invasive spe-
16 cies)”; and

17 (ii) by inserting before the semicolon
18 the following: “(including minimizing ad-
19 verse health effects from mobile source air
20 pollution and promoting the linkage of the
21 transportation and development goals of
22 the metropolitan area)”; and

23 (B) in subparagraph (G), by inserting
24 “and efficient use” after “preservation”;

1 (2) by redesignating paragraph (2) as para-
2 graph (3); and

3 (3) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) SELECTION OF FACTORS.—After soliciting
6 and considering any relevant public comments, the
7 metropolitan planning organization shall determine
8 which of the factors described in paragraph (1) are
9 most appropriate for the metropolitan area to con-
10 sider.”.

11 (b) STATEWIDE PLANNING.—Section 135(c) of title
12 23, United States Code, is amended—

13 (1) in paragraph (1)—

14 (A) in subparagraph (D)—

15 (i) by inserting after “environment”
16 the following: “(including the protection of
17 habitat, water quality, and agricultural and
18 forest land, while minimizing invasive spe-
19 cies)”; and

20 (ii) by inserting before the semicolon
21 the following: “(including minimizing ad-
22 verse health effects from mobile source air
23 pollution and promoting the linkage of the
24 transportation and development goals of
25 the State)”; and

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1 (B) in subparagraph (G), by inserting
2 “and efficient use” after “preservation”;

3 (2) by redesignating paragraph (2) as para-
4 graph (3); and

5 (3) by inserting after paragraph (1) the fol-
6 lowing:

7 “(2) SELECTION OF PROJECTS AND STRATE-
8 GIES.—After soliciting and considering any relevant
9 public comments, the State shall determine which of
10 the projects and strategies described in paragraph
11 (1) are most appropriate for the State to consider.”.

12 **SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION**
13 **AGENCIES AND RESOURCE AGENCIES IN**
14 **TRANSPORTATION PLANNING.**

15 (a) IN GENERAL.—Section 134(g) of title 23, United
16 States Code, is amended—

17 (1) by redesignating paragraphs (4), (5), and
18 (6) as paragraphs (5), (6), and (7), respectively; and

19 (2) by inserting after paragraph (3) the fol-
20 lowing:

21 “(4) CONSULTATION.—

22 “(A) IN GENERAL.—In each metropolitan
23 area, the metropolitan planning organization
24 shall consult, as appropriate, with State and
25 local agencies responsible for land use manage-

1 ment, natural resources, environmental protec-
2 tion, conservation, historic preservation, and
3 health concerning the development of a long-
4 range transportation plan.

5 “(B) ISSUES.—The consultation shall
6 involve—

7 “(i) comparison of transportation
8 plans with State conservation plans or with
9 maps if available;

10 “(ii) comparison of transportation
11 plans to inventories of natural or historic
12 resources if available; or

13 “(iii) identification of areas where
14 wildlife crossing structures may be needed
15 to ensure connectivity between wildlife
16 habitat linkage areas.”.

17 (b) IMPROVED CONSULTATION DURING STATE
18 TRANSPORTATION PLANNING.—Section 135(e)(2) of title
19 23, United States Code, is amended by adding at the end
20 the following:

21 “(D) CONSULTATION, COMPARISON, AND
22 IDENTIFICATION.—

23 “(i) IN GENERAL.—With respect to
24 each metropolitan area, the long-range
25 transportation plan shall be developed, as

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1 appropriate, in consultation with State and
2 local agencies responsible for—

3 “(I) land use management;

4 “(II) natural resources;

5 “(III) environmental protection;

6 “(IV) conservation;

7 “(V) historic preservation; and

8 “(VI) health.

9 “(ii) COMPARISON AND IDENTIFICA-
10 TION.—Consultation under clause (i) shall
11 involve—

12 “(I) comparison of transportation
13 plans to State conservation plans or
14 maps if available;

15 “(II) comparison of transpor-
16 tation plans to inventories of natural
17 or historic resources if available; or

18 “(III) identification of areas
19 where wildlife crossing structures may
20 be needed to ensure connectivity be-
21 tween wildlife habitat linkage areas.”.

1 **SEC. 1503. INTEGRATION OF NATURAL RESOURCE CON-**
2 **CERNS INTO TRANSPORTATION PROJECT**
3 **PLANNING.**

4 Section 109(c)(2) of title 23, United States Code, is
5 amended—

6 (1) by striking “consider the results” and in-
7 serting “consider—

8 “(A) the results”;

9 (2) by striking the period at the end and insert-
10 ing a semicolon; and

11 (3) by adding at the end the following:

12 “(B) the publication entitled ‘Flexibility in
13 Highway Design’ of the Federal Highway Ad-
14 ministration; and

15 “(C) ‘Eight Characteristics of Process to
16 Yield Excellence and the Seven Qualities of Ex-
17 cellence in Transportation Design’ developed by
18 the conference held during 1998 entitled
19 ‘Thinking Beyond the Pavement National
20 Workshop on Integrating Highway Develop-
21 ment with Communities and the Environment
22 while Maintaining Safety and Performance’.”.

23 **SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION**
24 **PLANNING AND PROJECTS.**

25 (a) METROPOLITAN PLANNING.—

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1 (1) PARTICIPATION BY INTERESTED PAR-
2 TIES.—Section 134(g)(5) of title 23, United States
3 Code (as redesignated by section 1502(a)(1)), is
4 amended by striking “Before approving” and insert-
5 ing the following:

6 “(A) IN GENERAL.—Before approving”;

7 and

8 (B) by adding at the end the following:

9 “(B) METHODS.—In carrying out subpara-
10 graph (A), the metropolitan planning organiza-
11 tion shall, to the maximum extent practicable—

12 “(i) hold any public meetings at con-
13 venient and accessible locations and times;

14 “(ii) employ visualization techniques
15 to describe plans; and

16 “(iii) make public information avail-
17 able in electronically accessible format and
18 means, such as the World Wide Web.”.

19 (2) ADDITIONAL REQUIREMENTS.—Section
20 134(g)(2) of title 23, United States Code, is
21 amended—

22 (A) by redesignating subparagraphs (B)
23 through (D) as subparagraphs (C) through (E),
24 respectively; and

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1 (B) by inserting after subparagraph (A)
2 the following:

3 “(B) MITIGATION ACTIVITIES.—

4 “(i) IN GENERAL.—A long-range
5 transportation plan shall include a discus-
6 sion of types of potential habitat,
7 hydrological, and environmental mitigation
8 activities that may assist in compensating
9 for loss of habitat, wetlands, and other en-
10 vironmental functions.

11 “(ii) SITE IDENTIFICATION.—A long-
12 range transportation plan should identify
13 the best available sites to carry out poten-
14 tial mitigation activities with preference
15 given to sites that have the greatest poten-
16 tial to restore and maintain the habitat
17 types and hydrological or environmental
18 functions affected by the plan.

19 “(iii) CONSULTATION.—The discus-
20 sion should be developed in consultation
21 with Federal, State, and tribal wildlife,
22 land management, and regulatory agen-
23 cies.”.

24 (3) PUBLICATION OF LONG-RANGE TRANSPOR-
25 TATION PLANS.—Section 134(g)(6)(i) of title 23,

1 United States Code (as redesignated by section
2 1502(a)(1)), is amended by inserting before the
3 semicolon the following: “, including (to the max-
4 imum extent practicable) in electronically accessible
5 formats and means such as the World Wide Web”.

6 (b) STATEWIDE PLANNING.—

7 (1) PARTICIPATION BY INTERESTED PAR-
8 TIES.—Section 135(e)(3) of title 23, United States
9 Code, is amended by striking subparagraph (B) and
10 inserting the following:

11 “(B) METHODS.—In carrying out subpara-
12 graph (A), the State shall, to the maximum ex-
13 tent practicable—

14 “(i) hold any public meetings at con-
15 venient and accessible locations and times;

16 “(ii) employ visualization techniques
17 to describe plans; and

18 “(iii) make public information avail-
19 able in electronically accessible format and
20 means, such as the World Wide Web.”.

21 (2) ADDITIONAL REQUIREMENTS.—Section
22 135(e) of title 23, United States Code, is amended—

23 (A) by redesignating paragraphs (4) and
24 (5) as paragraphs (6) and (7), respectively; and

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1 (B) by inserting after paragraph (3) the
2 following:

3 “(4) MITIGATION ACTIVITIES.—

4 “(A) IN GENERAL.—A long-range trans-
5 portation plan shall include a discussion of
6 types of potential habitat, hydrological, and en-
7 vironmental mitigation activities that may assist
8 in compensating for loss of habitat, wetlands,
9 and other environmental functions.

10 “(B) SITE IDENTIFICATION.—A long-range
11 transportation plan should identify the best
12 available sites to carry out potential mitigation
13 activities with preference given to sites that
14 have the greatest potential to restore and main-
15 tain the habitat types and hydrological or envi-
16 ronmental functions affected by the plan.

17 “(C) CONSULTATION.—The discussion
18 should be developed in consultation with Fed-
19 eral, State, and tribal wildlife, land manage-
20 ment, and regulatory agencies.

21 “(5) TRANSPORTATION STRATEGIES.—A long-
22 range transportation plan shall identify transpor-
23 tation strategies necessary to efficiently serve the
24 mobility needs of people.”

1 (3) PUBLICATION OF LONG-RANGE TRANSPOR-
2 TATION PLANS.—Section 135(e) of title 23, United
3 States Code (as amended by paragraph (2), is
4 amended by adding at the end the following:

5 “(8) PUBLICATION OF LONG-RANGE TRANSPOR-
6 TATION PLANS.—Each long-range transportation
7 plan prepared by a State shall be published or other-
8 wise made available, including (to the maximum ex-
9 tent practicable) in electronically accessible formats
10 and means such as the World Wide Web.”.

11 **SEC. 1505. PROJECT MITIGATION.**

12 (a) MITIGATION FOR NATIONAL HIGHWAY SYSTEM
13 PROJECTS.—Section 103(b)(6)(M) of title 23, United
14 States Code, is amended—

15 (1) by inserting “(i)” after “(M); and

16 (2) by adding at the end the following:

17 “(ii) State habitat and wetlands mitigation
18 efforts under section 148.”.

19 (b) MITIGATION FOR SURFACE TRANSPORTATION
20 PROGRAM PROJECTS.—Section 133(b)(11) of title 23,
21 United States Code, is amended—

22 (1) by inserting “(A)” after “(11)”; and

23 (2) by adding at the end the following:

24 “(B) State habitat and wetlands mitigation ef-
25 forts under section 148.”.

1 (c) STATE HABITAT AND WETLANDS MITIGATION
2 FUNDS.—Subchapter I of chapter I of title 23, United
3 States Code, is amended by striking section 148 and in-
4 serting the following:

5 **“§ 148. State habitat and wetlands mitigation funds**

6 “(a) ESTABLISHMENT.—A State may establish a
7 habitat and wetlands mitigation fund (referred to in this
8 section as a ‘State fund’).

9 “(b) PURPOSE.—The purpose of a State fund is to
10 encourage efforts for habitat and wetlands mitigation in
11 advance of or in conjunction with highway projects to—

12 “(1) ensure that the best habitat and wetland
13 mitigation sites now available are used; and

14 “(2) accelerate transportation project delivery
15 by making high-quality habitat and wetland mitiga-
16 tion credits available when needed.

17 “(c) FUNDS.—A State may deposit into a State fund
18 part of the funds apportioned to the State under—

19 “(1) section 104(b)(1) for the National High-
20 way System; and

21 “(2) section 104(b)(3) for the surface transpor-
22 tation program.

23 “(d) USE.—

24 “(1) IN GENERAL.—Amounts deposited in a
25 State fund shall be used (in a manner consistent

1 with this section) for habitat or wetlands mitigation
2 related to 1 or more projects funded under this title,
3 including a project under the transportation im-
4 provement program of the State developed under
5 section 135(f).

6 “(2) ENDANGERED SPECIES.—In carrying out
7 this section, a State and cooperating agency shall
8 give consideration to mitigation projects, on-site or
9 off-site, that restore and preserve the best available
10 sites to conserve biodiversity and habitat for—

11 “(A) threatened or endangered species of
12 plants and animals; and

13 “(B) plant or animal species warranting
14 listing as threatened or endangered, as deter-
15 mined by the Secretary of the Interior in ac-
16 cordance with section 4(b)(3)(B) of the Endan-
17 gered Species Act of 1973 (16 U.S.C.
18 1533(b)(3)(B)).

19 “(e) CONSISTENCY WITH APPLICABLE REQUIRE-
20 MENTS.—Contributions from the State fund to mitigation
21 efforts may occur in advance of project construction only
22 if the efforts are consistent with all applicable require-
23 ments of Federal law (including regulations).”.

24 (d) CONFORMING AMENDMENT.—The analysis for
25 subchapter I of chapter 1 of title 23, United States Code,

1 is amended by striking the item relating to section 148
2 and inserting the following:

“148. State habitat and wetlands mitigation funds.”.

3 **CHAPTER 2—TRANSPORTATION PROJECT**
4 **DEVELOPMENT PROCESS**

5 **SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT**
6 **PROCESS.**

7 (a) IN GENERAL.—Chapter 3 of title 23, United
8 States Code (as amended by section 1203(a)), is amended
9 by inserting after section 325 the following:

10 **“§ 326. Transportation project development process**

11 “(a) DEFINITIONS.—In this section:

12 “(1) AGENCY.—The term ‘agency’ means any
13 agency, department, or other unit of Federal, State,
14 local, or tribal government.

15 “(2) ENVIRONMENTAL IMPACT STATEMENT.—
16 The term ‘environmental impact statement’ means a
17 detailed statement of the environmental impacts of
18 a project required to be prepared under the National
19 Environmental Policy Act of 1969 (42 U.S.C. 4321
20 et seq.).

21 “(3) ENVIRONMENTAL REVIEW PROCESS.—

22 “(A) IN GENERAL.—The term ‘environ-
23 mental review process’ means the process for
24 preparing, for a project—

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1 “(i) an environmental impact state-
2 ment; or

3 “(ii) any other document required to
4 be prepared under the National Environ-
5 mental Policy Act of 1969 (42 U.S.C.
6 4321 et seq.)

7 “(B) INCLUSIONS.—The term ‘environ-
8 mental review process’ includes the process for
9 and completion of any environmental permit,
10 approval, review, or study required for a project
11 under any Federal law other than the National
12 Environmental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.).

14 “(4) PROJECT.—The term ‘project’ means any
15 highway or transit project that requires the approval
16 of the Secretary.

17 “(5) PROJECT SPONSOR.—The term ‘project
18 sponsor’ means an agency or other entity (including
19 any private or public-private entity), that seeks ap-
20 proval of the Secretary for a project.

21 “(6) STATE TRANSPORTATION DEPARTMENT.—
22 The term ‘State transportation department’ means
23 any statewide agency of a State with responsibility
24 for transportation.

25 “(b) PROCESS.—

1 “(1) LEAD AGENCY.—

2 “(A) IN GENERAL.—The Department of
3 Transportation shall be the lead Federal agency
4 in the environmental review process for a
5 project.

6 “(B) JOINT LEAD AGENCIES.—Nothing in
7 this section precludes another agency from
8 being a joint lead agency in accordance with
9 regulations under the National Environmental
10 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

11 “(C) CONCURRENCE OF PROJECT SPON-
12 SOR.—The lead agency may carry out the envi-
13 ronmental review process in accordance with
14 this section only with the concurrence of the
15 project sponsor.

16 “(2) REQUEST FOR PROCESS.—

17 “(A) IN GENERAL.—A project sponsor may
18 request that the lead agency carry out the envi-
19 ronmental review process for a project or group
20 of projects in accordance with this section.

21 “(B) GRANT OF REQUEST; PUBLIC NO-
22 TICE.—The lead agency shall—

23 “(i) grant a request under subpara-
24 graph (A); and

1 “(ii) provide public notice of the re-
2 quest.

3 “(3) EFFECTIVE DATE.—The environmental re-
4 view process described in this section may be applied
5 to a project only after the date on which public no-
6 tice is provided under subparagraph (B)(ii).

7 “(c) ROLES AND RESPONSIBILITY OF LEAD AGEN-
8 CY.—With respect to the environmental review process for
9 any project, the lead agency shall have authority and re-
10 sponsibility to—

11 “(A) identify and invite cooperating agen-
12 cies in accordance with subsection (d);

13 “(B) develop an agency coordination
14 memorandum of understanding with review,
15 schedule, and timelines in accordance with sub-
16 section (e);

17 “(C) determine the purpose and need for
18 the project in accordance with subsection (f);

19 “(D) determine the range of alternatives to
20 be considered in accordance with subsection (g);

21 “(E) convene dispute-avoidance and deci-
22 sion resolution meetings and related efforts in
23 accordance with subsection (h);

24 “(F) take such other actions as are nec-
25 essary and proper, within the authority of the

1 lead agency, to facilitate the expeditious resolu-
2 tion of the environmental review process for the
3 project; and

4 “(G) prepare or ensure that any required
5 environmental impact statement or other docu-
6 ment required to be completed under the Na-
7 tional Environmental Policy Act of 1969 (42
8 U.S.C. 4321 et seq.) is completed in accordance
9 with the environmental review process.

10 “(d) ROLES AND RESPONSIBILITIES OF COOPER-
11 ATING AGENCIES.—

12 “(1) IN GENERAL.—With respect to a project,
13 each Federal agency shall carry out any obligations
14 of the Federal agency in the environmental review
15 process in accordance with this section and applica-
16 ble Federal law.

17 “(2) INVITATION.—

18 “(A) IN GENERAL.—The lead agency
19 shall—

20 “(i) identify, as early as practicable in
21 the environmental review process for a
22 project, any other agencies that may have
23 an interest in the project, including—

24 “(I) agencies with jurisdiction
25 over environmental-related matters

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1 that may affect the project or may be
2 required by law to conduct an envi-
3 ronmental-related independent review
4 or analysis of the project or determine
5 whether to issue an environmental-re-
6 lated permit, license, or approval for
7 the project; and

8 “(II) agencies with special exper-
9 tise relevant to the project;

10 “(ii) invite the agencies identified in
11 clause (i) to become participating agencies
12 in the environmental review process for
13 that project;

14 “(iii) grant requests to become co-
15 operating agencies from agencies not origi-
16 nally invited.

17 “(B) RESPONSES.—The deadline for re-
18 ceipt of a response from an agency that receives
19 an invitation under subparagraph (A)(ii)—

20 “(i) shall be 30 days after the date of
21 receipt by the agency of the invitation; but

22 “(ii) may be extended by the lead
23 agency for good cause.

24 “(3) DECLINING AN INVITATION.—A Federal
25 agency that is invited by the lead agency to partici-

1 pate in the environmental review process for a
2 project shall be designated as a cooperating agency
3 by the lead agency, unless the invited agency in-
4 forms the lead agency in writing, by the deadline
5 specified in the invitation, that the invited agency—

6 “(A) has no jurisdiction or authority with
7 respect to the project;

8 “(B) has no expertise or information rel-
9 evant to the project; and

10 “(C) does not intend to submit comments
11 on the project.

12 “(4) EFFECT OF DESIGNATION.—Designation
13 as a cooperating agency under this subsection shall
14 not imply that the cooperating agency—

15 “(A) supports a proposed project; or

16 “(B) has any jurisdiction over, or special
17 expertise with respect to evaluation of, the
18 project.

19 “(5) DESIGNATIONS FOR CATEGORIES OF
20 PROJECTS.—

21 “(A) IN GENERAL.—The Secretary may in-
22 vite other agencies to become cooperating agen-
23 cies for a category of projects.

24 “(B) DESIGNATION.—An agency may be
25 designated as a cooperating agency for a cat-

1 egory of projects only with the consent of the
2 agency.

3 “(6) CONCURRENT REVIEWS.—Each Federal
4 agency shall, to the maximum extent practicable—

5 “(A) carry out obligations of the Federal
6 agency under other applicable law concurrently,
7 and in conjunction, with the review required
8 under the National Environmental Policy Act of
9 1969 (42 U.S.C. 4321 et seq.); and

10 “(B) formulate and implement administra-
11 tive, policy, and procedural mechanisms to en-
12 able the agency to ensure completion of the en-
13 vironmental review process in a timely, coordi-
14 nated, and environmentally responsible manner.

15 “(e) COLLABORATIVE DEVELOPMENT OF FLEXIBLE
16 PROCESS AND TIMELINE.—

17 “(1) COORDINATION MEMORANDUM OF UNDER-
18 STANDING.—

19 “(A) IN GENERAL.—The lead agency shall
20 establish a plan, which may be incorporated
21 into a memorandum of understanding, to co-
22 ordinate agency and public participation in and
23 comment on the environmental review process
24 for a project or category of projects.

25 “(B) WORKPLAN.—

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1 “(i) IN GENERAL.—The lead agency
2 may develop, as part of the coordination
3 memorandum of understanding, a
4 workplan for completing the collection,
5 analysis, and evaluation of baseline data
6 and future impacts modeling necessary to
7 complete the environmental review process,
8 including any data, analyses, and modeling
9 necessary for related permits, approvals,
10 reviews, or studies required for the project
11 under other laws.

12 “(ii) CONSULTATION.—In developing
13 the workplan under clause (i), the lead
14 agency shall consult with—

15 “(I) each cooperating agency for
16 the project;

17 “(II) the State in which the
18 project is located; and

19 “(III) if the State is not the
20 project sponsor, the project sponsor.

21 “(C) SCHEDULE.—

22 “(i) IN GENERAL.—The lead agency
23 may establish as part of the coordination
24 plan, after consultation with each cooper-
25 ating agency for the project and with the

5-23

1 State in which the project is located (and,
2 if the State is not the project sponsor, with
3 the project sponsor), a schedule for com-
4 pletion of the environmental review process
5 for the project.

6 “(ii) FACTORS FOR CONSIDER-
7 ATION.—In establishing the schedule, the
8 lead agency shall consider factors such
9 as—

10 “(I) the responsibilities of co-
11 operating agencies under applicable
12 laws;

13 “(II) resources available to the
14 cooperating agencies;

15 “(III) overall size and complexity
16 of a project;

17 “(IV) the overall schedule for
18 and cost of a project; and

19 “(V) the sensitivity of the natural
20 and historic resources that could be
21 affected by the project.

22 “(D) CONSISTENCY WITH OTHER TIME PE-
23 RIODS.—A schedule under subparagraph (C)
24 shall be consistent with any other relevant time
25 periods established under Federal law.

1 “(E) MODIFICATION.—The lead agency
2 may—

3 “(i) lengthen a schedule established
4 under subparagraph (C) for good cause;
5 and

6 “(ii) shorten a schedule only with the
7 concurrence of the cooperating agency.

8 “(F) DISSEMINATION.—A copy of a sched-
9 ule under subparagraph (C), and of any modi-
10 fications to the schedule, shall be—

11 “(i) provided to all cooperating agen-
12 cies and to the State transportation de-
13 partment of the State in which the project
14 is located (and, if the State is not the
15 project sponsor, to the project sponsor);
16 and

17 “(ii) made available to the public.

18 “(2) COMMENTS AND TIMELINES.—

19 “(A) IN GENERAL.—A schedule established
20 under paragraph (1)(C) shall include—

21 “(i) opportunities for comment, dead-
22 line for receipt of any comments sub-
23 mitted, deadline for lead agency response
24 to comments; and

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1 “(ii) except as otherwise provided
2 under paragraph (1)—

3 “(I) an opportunity to comment
4 by agencies and the public on a draft
5 or final environmental impact state-
6 ment for a period of not more than 60
7 days longer than the minimum period
8 required under the National Environ-
9 mental Policy Act of 1969 (42 U.S.C.
10 4321 et seq.); and

11 “(II) for all other comment peri-
12 ods established by the lead agency for
13 agency or public comments in the en-
14 vironmental review process, a period
15 of not more than the longer of—

16 “(aa) 30 days; or

17 “(bb) 30 days after the min-
18 imum period required under Fed-
19 eral law (including regulations) if
20 available.

21 “(B) EXTENSION OF COMMENT PERI-
22 ODS.—The lead agency may extend a period of
23 comment established under this paragraph for
24 good cause.

1 “(C) LATE COMMENTS.—A comment con-
2 cerning a project submitted under this para-
3 graph after the date of termination of the appli-
4 cable comment period or extension of a com-
5 ment period shall not be eligible for consider-
6 ation by the lead agency unless the lead agency
7 or project sponsor determines there was good
8 cause for the delay or the lead agency is re-
9 quired to consider significant new cir-
10 cumstances or information in accordance with
11 sections 1501.7 and 1502.9 of title 40, Code of
12 Federal Regulations.

13 “(D) DEADLINES FOR DECISIONS UNDER
14 OTHER LAWS.—In any case in which a decision
15 under any Federal law relating to a project (in-
16 cluding the issuance or denial of a permit or li-
17 cense) is required to be made by the later of the
18 date that is 180 days after the date on which
19 the Secretary made all final decisions of the
20 lead agency with respect to the project, or 180
21 days after the date on which an application was
22 submitted for the permit or license, the Sec-
23 retary shall submit to the Committee on Envi-
24 ronment and Public Works of the Senate and

1 the Committee on Transportation and Infra-
2 structure of the House of Representatives—

3 “(i) as soon as practicable after the
4 180-day period, an initial notice of the fail-
5 ure of the Federal agency to make the de-
6 cision; and

7 “(ii) every 60 day thereafter until
8 such date as all decisions of the Federal
9 agency relating to the project have been
10 made by the Federal agency, an additional
11 notice that describes the number of deci-
12 sions of the Federal agency that remain
13 outstanding as of the date of the additional
14 notice.

15 “(3) INVOLVEMENT OF THE PUBLIC.—Nothing
16 in this subsection shall reduce any time period pro-
17 vided for public comment in the environmental re-
18 view process under existing Federal law (including a
19 regulation).

20 “(f) COLLABORATIVE DEVELOPMENT OF PROJECT
21 PURPOSE AND NEED STATEMENT.—

22 “(1) IN GENERAL.—With respect to the envi-
23 ronmental review process for a project, the purpose
24 and need for the project shall be defined in accord-
25 ance with this subsection.

1 “(2) AUTHORITY.—The lead agency shall define
2 the purpose and need for a project, including the
3 transportation objectives and any other objectives in-
4 tended to be achieved by the project.

5 “(3) INVOLVEMENT OF COOPERATING AGEN-
6 CIES AND THE PUBLIC.—Before determining the
7 purpose and need for a project, the lead agency shall
8 solicit for 30 days and consider any relevant com-
9 ments on the draft statement of purpose and need
10 for a proposed project received from the public and
11 cooperating agencies.

12 “(4) EFFECT ON OTHER REVIEWS.—For the
13 purpose of compliance with the National Environ-
14 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
15 and any other law requiring an agency that is not
16 the lead agency to determine or consider a project
17 purpose or project need, such an agency acting, per-
18 mitting, or approving under, or otherwise applying,
19 Federal law with respect to a project shall adopt the
20 determination of purpose and need for the project
21 made by the lead agency.

22 “(5) CONTENTS.—

23 “(A) IN GENERAL.—The statement of pur-
24 pose and need shall include a clear statement of

1 the objectives that the proposed project is in-
2 tended to achieve.

3 “(B) EFFECT ON EXISTING STANDARDS.—
4 Nothing in this subsection shall alter existing
5 standards for defining the purpose and need of
6 a project.

7 “(6) FACTORS TO CONSIDER.—The lead agency
8 may determine that any of the following factors and
9 documents are appropriate for consideration in de-
10 termining the purpose of and need for a project:

11 “(A) Transportation plans and related
12 planning documents developed through the
13 statewide and metropolitan transportation plan-
14 ning process under sections 134 and 135.

15 “(B) Land use plans adopted by units of
16 State, local, or tribal government (or, in the
17 case of Federal land, by the applicable Federal
18 land management agencies).

19 “(C) Economic development plans adopted
20 by—

21 “(i) units of State, local, or tribal gov-
22 ernment; or

23 “(ii) established economic develop-
24 ment planning organizations or authorities.

1 “(D) Environmental protection plans, in-
2 cluding plans for the protection or treatment
3 of—

4 “(i) air quality;

5 “(ii) water quality and runoff;

6 “(iii) habitat needs of plants and ani-
7 mals;

8 “(iv) threatened and endangered spe-
9 cies;

10 “(v) invasive species;

11 “(vi) historic properties; and

12 “(vii) other environmental resources.

13 “(E) Any publicly available plans or poli-
14 cies relating to the national defense, national
15 security, or foreign policy of the United States.

16 “(g) COLLABORATIVE DEVELOPMENT OF PROJECT
17 ALTERNATIVES.—

18 “(1) IN GENERAL.—With respect to the envi-
19 ronmental review process for a project, the alter-
20 natives shall be determined in accordance with this
21 subsection.

22 “(2) AUTHORITY.—The lead agency shall deter-
23 mine the alternatives to be considered for a project.

24 “(3) INVOLVEMENT OF COOPERATING AGEN-
25 CIES AND THE PUBLIC.—

1 “(A) IN GENERAL.—Before determining
2 the alternatives for a project, the lead agency
3 shall solicit for 30 days and consider any rel-
4 evant comments on the proposed alternatives
5 received from the public and cooperating agen-
6 cies.

7 “(B) ALTERNATIVES.—The lead agency
8 shall consider—

9 “(i) alternatives that meet the pur-
10 pose and need of the project; and

11 “(ii) the alternative of no action.

12 “(C) EFFECT ON EXISTING STANDARDS.—
13 Nothing in this subsection shall alter the exist-
14 ing standards for determining the range of al-
15 ternatives.

16 “(4) EFFECT ON OTHER REVIEWS.—Any other
17 agency acting under or applying Federal law with
18 respect to a project shall consider only the alter-
19 natives determined by the lead agency.

20 “(5) FACTORS TO CONSIDER.—The lead agency
21 may determine that any of the following factors and
22 documents are appropriate for consideration in de-
23 termining the alternatives for a project:

24 “(A) The overall size and complexity of the
25 proposed action.

1 “(B) The sensitivity of the potentially af-
2 fected resources.

3 “(C) The overall schedule and cost of the
4 project.

5 “(D) Transportation plans and related
6 planning documents developed through the
7 statewide and metropolitan transportation plan-
8 ning process under sections 134 and 135 of
9 title 23 of the United States Code.

10 “(E) Land use plans adopted by units of
11 State, local, or tribal government (or, in the
12 case of Federal land, by the applicable Federal
13 land management agencies).

14 “(F) Economic development plans adopted
15 by—

16 “(i) units of State, local, or tribal gov-
17 ernment; or

18 “(ii) established economic develop-
19 ment planning organizations or authorities.

20 “(G) environmental protection plans, in-
21 cluding plans for the protection or treatment
22 of—

23 “(i) air quality;

24 “(ii) water quality and runoff;

1 “(iii) habitat needs of plants and ani-
2 mals;

3 “(iv) threatened and endangered spe-
4 cies;

5 “(v) invasive species;

6 “(vi) historic properties; and

7 “(vii) other environmental resources.

8 “(H) Any publicly available plans or poli-
9 cies relating to the national defense, national
10 security, or foreign policy of the United States.

11 “(h) PROMPT ISSUE IDENTIFICATION AND RESOLU-
12 TION PROCESS.—

13 “(1) IN GENERAL.—The lead agency, the
14 project sponsor, and the cooperating agencies shall
15 work cooperatively, in accordance with this section,
16 to identify and resolve issues that could—

17 “(A) delay completion of the environmental
18 review process; or

19 “(B) result in denial of any approvals re-
20 quired for the project under applicable laws.

21 “(2) LEAD AGENCY RESPONSIBILITIES.—

22 “(A) IN GENERAL.—The lead agency, with
23 the assistance of the project sponsor, shall
24 make information available to the cooperating

1 agencies, as early as practicable in the environ-
2 mental review process, regarding—

3 “(i) the environmental and socio-
4 economic resources located within the
5 project area; and

6 “(ii) the general locations of the alter-
7 natives under consideration.

8 “(B) BASIS FOR INFORMATION.—Informa-
9 tion about resources in the project area may be
10 based on existing data sources, including geo-
11 graphic information systems mapping.

12 “(3) COOPERATING AGENCY RESPONSIBIL-
13 ITIES.—

14 “(A) IN GENERAL.—Based on information
15 received from the lead agency, cooperating
16 agencies shall promptly identify to the lead
17 agency any major issues of concern regarding
18 the potential environmental or socioeconomic
19 impacts of a project.

20 “(B) MAJOR ISSUES OF CONCERN.—A
21 major issue of concern referred to in subpara-
22 graph (A) may include any issue that could
23 substantially delay or prevent an agency from
24 granting a permit or other approval that is

1 needed for a project, as determined by a cooper-
2 ating agency.

3 “(4) ISSUE RESOLUTION.—On identification of
4 a major issue of concern under paragraph (3), or at
5 any time upon the request of a project sponsor or
6 the Governor of a State, the lead agency shall
7 promptly convene a meeting with representatives of
8 each of the relevant cooperating agencies, the project
9 sponsor, the Governor to address and resolve the
10 issue.

11 “(5) NOTIFICATION.—If a resolution of a major
12 issue of concern under paragraph (4) cannot be
13 achieved by the date that is 30 days after the date
14 on which a meeting under that paragraph is con-
15 vened, the lead agency shall provide notification of
16 the failure to resolve the major issue of concern to—

17 “(A) the heads of all cooperating agencies;

18 “(B) the project sponsor;

19 “(C) the Governor involved;

20 “(D) the Committee on Environment and
21 Public Works of the Senate; and

22 “(E) the Committee on Transportation
23 and Infrastructure of the House of Representa-
24 tives.

25 “(i) PERFORMANCE MEASUREMENT.—

1 “(1) PROGRESS REPORTS.—The Secretary shall
2 establish a program to measure and report on
3 progress toward improving and expediting the plan-
4 ning and environmental review process.

5 “(2) MINIMUM REQUIREMENTS.—The program
6 shall include, at a minimum—

7 “(A) the establishment of criteria for
8 measuring consideration of—

9 “(i) State and metropolitan planning,
10 project planning, and design criteria; and

11 “(ii) environmental processing times
12 and costs;

13 “(B) the collection of data to assess per-
14 formance based on the established criteria; and

15 “(C) the annual reporting of the results of
16 the performance measurement studies.

17 “(3) INVOLVEMENT OF THE PUBLIC AND CO-
18 OPERATING AGENCIES.—

19 “(A) IN GENERAL.—The Secretary shall
20 biennially conduct a survey of agencies partici-
21 pating in the environmental review process
22 under this section to assess the expectations
23 and experiences of each surveyed agency with
24 regard to the planning and environmental re-

1 view process for projects reviewed under this
2 section.

3 “(B) PUBLIC PARTICIPATION.—In con-
4 ducting the survey, the Secretary shall solicit
5 comment from the public.

6 “(j) SAVINGS.—Nothing in subsection (f) or (g) pre-
7 empts or interferes with any power, jurisdiction, responsi-
8 bility, or authority that an agency has under applicable
9 law (including regulations) for a project.

10 “(k) ASSISTANCE TO AFFECTED FEDERAL AGEN-
11 CIES.—

12 “(1) IN GENERAL.—The Secretary may approve
13 a request by a State or recipient to provide funds for
14 a highway project made available under this chapter,
15 or for a mass transit project made available under
16 chapter 53 of title 49, to the State for the project
17 subject to the coordinated environmental review
18 process established under this section to affected
19 Federal agencies to provide the resources necessary
20 to meet any time limits established under this sec-
21 tion.

22 “(2) AMOUNTS.—Such requests under para-
23 graph (1) shall be approved only—

24 “(A) for the additional amounts that the
25 Secretary determines are necessary for the af-

1 affected Federal agencies to meet the time limits
2 for environmental review; and

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

5 (b) **AUTHORITY TO PROMULGATE REGULATIONS.**—

6 Not later than 1 year after the date of the enactment of
7 this Act, the Secretary shall promulgate regulations nec-
8 essary to implement the amendments made by this section.

9 (c) **CONFORMING AMENDMENTS.**—

10 (1) The analysis for chapter 3 of title 23,
11 United States Code, is amended by inserting after
12 the item relating to section 325 (as added by section
13 1203(f)) the following:

“326. Transportation project development process.”.

14 (2) Section 1309 of the Transportation Equity
15 Act for the 21st Century (112 Stat. 232) is
16 amended—

17 (A) by striking subsections (a), (b), (c),
18 (d), and (e);

19 (B) by redesignating subsections (f) and
20 (g) as subsections (b) and (a), respectively, and
21 moving the subsections so as to appear in al-
22 phabetical order; and

23 (C) in subsection (a) (as redesignated by
24 subparagraph (B)), in the subsection heading,
25 by striking “**FEDERAL AGENCY DEFINED.**—”

1 “(3) CRITERIA.—The criteria under paragraph
2 (2) shall include provision for public availability of
3 information consistent with section 552 of title 5
4 and the National Environmental Policy Act of 1969
5 (42 U.S.C. 4321 et seq.).

6 “(b) OTHER APPLICABLE FEDERAL LAWS.—

7 “(1) IN GENERAL.—If a State assumes respon-
8 sibility under subsection (a), the Secretary may also
9 assign and the State may assume all or part of the
10 responsibilities of the Secretary for environmental
11 review, consultation, or other related actions re-
12 quired under any Federal law applicable to activities
13 that are classified by the Secretary as categorical ex-
14 clusions, with the exception of government-to-govern-
15 ment consultation with Indian tribes, subject to the
16 same procedural and substantive requirements as
17 would be required if that responsibility were carried
18 out by the Secretary.

19 “(2) SOLE RESPONSIBILITY.—A State that as-
20 sumes responsibility under paragraph (1) with re-
21 spect to a Federal law shall be solely responsible and
22 solely liable for complying with and carrying out
23 that law, and the Secretary shall have no such re-
24 sponsibility or liability.

25 “(c) MEMORANDA OF UNDERSTANDING.—

1 “(1) IN GENERAL.—The Secretary and the
2 State, after providing public notice and opportunity
3 for comment, shall enter into a memorandum of un-
4 derstanding setting forth the responsibilities to be
5 assigned under this section and the terms and condi-
6 tions under which the assignments are made.

7 “(2) TERM.—A memorandum of
8 understanding—

9 “(A) shall have term of not more than 3
10 years; and

11 “(B) shall be renewable.

12 “(3) ACCEPTANCE OF JURISDICTION.—In a
13 memorandum of understanding, the State shall con-
14 sent to accept the jurisdiction of the Federal courts
15 for the compliance, discharge, and enforcement of
16 any responsibility of the Secretary that the State as-
17 sumes.

18 “(4) MONITORING.—The Secretary shall—

19 “(A) monitor compliance by the State with
20 the memorandum of understanding and the
21 provision by the State of financial resources to
22 carry out the memorandum of understanding;
23 and

1 “(B) take into account the performance by
2 the State when considering renewal of the
3 memorandum of understanding.

4 “(d) TERMINATION.—The Secretary may terminate
5 any assumption of responsibility under a memorandum of
6 understanding on a determination that the State is not
7 adequately carrying out the responsibilities assigned to the
8 State.

9 “(e) STATE AGENCY DEEMED TO BE FEDERAL
10 AGENCY.—A State agency that is assigned a responsibility
11 under a memorandum of understanding shall be deemed
12 to be a Federal agency for the purposes of the Federal
13 law under which the responsibility is exercised.”.

14 (b) CONFORMING AMENDMENT.—The analysis for
15 chapter 3 of title 23, United States Code (as amended by
16 section 1511(c)), is amended by inserting after the item
17 relating to section 326 the following:

“327. Assumption of responsibility for categorical exclusions.”.

18 **CHAPTER 3—MISCELLANEOUS**

19 **SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.**

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

22 “(d) CRITICAL REAL PROPERTY ACQUISITION.—

23 “(1) IN GENERAL.—Subject to paragraph (2)
24 and notwithstanding the fact that any environmental
25 reviews required for the acquisition of the property

1 have not been completed, funds apportioned to a
2 State under this title may be used to pay the costs
3 of acquiring any real property that is determined to
4 be critical under paragraph (2) for a project pro-
5 posed for funding under this title.

6 “(2) REIMBURSEMENT.—The Federal share of
7 the costs referred to in paragraph (1) shall be eligi-
8 ble for reimbursement out of funds apportioned to a
9 State under this title if, before the date of acquisi-
10 tion, the Secretary determines that—

11 “(A) the property is offered for sale on the
12 open market;

13 “(B) in acquiring the property, the State
14 will comply with the Uniform Relocation Assist-
15 ance and Real Property Acquisition Policies Act
16 of 1970 (42 U.S.C. 4601 et seq.); and

17 “(C) immediate acquisition of the property
18 is critical because—

19 “(i) based on an appraisal of the
20 property, the value of the property is in-
21 creasing significantly;

22 “(ii) there is an imminent threat of
23 development or redevelopment of the prop-
24 erty; or

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

4 “(3) APPLICABLE LAW.—An acquisition of real
5 property under this section shall be considered to be
6 an exempt project under section 176 of the Clean
7 Air Act (42 U.S.C. 7506).

8 “(4) ENVIRONMENTAL REVIEW.—

9 “(A) IN GENERAL.—A project proposed to
10 be conducted under this title shall not be con-
11 ducted on property acquired under paragraph
12 (1) until any required environmental reviews for
13 the project have been completed.

14 “(B) EFFECT ON CONSIDERATION OF
15 PROJECT ALTERNATIVES.—The number of crit-
16 ical acquisitions of real property associated with
17 a project shall not affect the consideration of
18 project alternatives during the environmental
19 review process.

20 “(5) PROCEEDS FROM THE SALE OR LEASE OF
21 REAL PROPERTY.—Section 156(c) shall not apply to
22 the sale, use, or lease of any real property acquired
23 under paragraph (1).”.

1 **SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.**

2 Section 104 of title 23, United States Code, is
3 amended by inserting after subsection (i) (as added by sec-
4 tion 1521(c)(2)) the following:

5 “(j) PLANNING CAPACITY BUILDING INITIATIVE.—

6 “(1) IN GENERAL.—The Secretary shall carry
7 out a planning capacity building initiative to support
8 enhancements in transportation planning to—

9 “(A) strengthen the processes and prod-
10 ucts of metropolitan and statewide transpor-
11 tation planning under this title;

12 “(B) enhance tribal capacity to conduct
13 joint transportation planning under chapter 2;

14 “(C) participate in the metropolitan and
15 statewide transportation planning programs
16 under this title; and

17 “(D) increase the knowledge and skill level
18 of participants in metropolitan and statewide
19 transportation.

20 “(2) PRIORITY.—The Secretary shall give pri-
21 ority to planning practices and processes that
22 support—

23 “(A) homeland security planning,
24 including—

25 “(i) training and best practices re-
26 lated to emergency evacuation;

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1 “(ii) developing materials to assist
2 areas in coordinating emergency manage-
3 ment and transportation officials; and

4 “(iii) developing training on how plan-
5 ning organizations can examine security
6 issues;

7 “(B) performance-based planning,
8 including—

9 “(i) data and data analysis tech-
10 nologies to be shared with States, metro-
11 politan planning organizations, local gov-
12 ernments, and nongovernmental organiza-
13 tions that—

14 “(I) participate in transportation
15 planning;

16 “(II) use the data and data anal-
17 ysis to engage in metropolitan, tribal,
18 or statewide transportation planning;

19 “(III) involve the public in the
20 development of transportation plans,
21 projects, and alternative scenarios;
22 and

23 “(IV) develop strategies to avoid,
24 minimize, and mitigate the impacts of
25 transportation facilities and projects;

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1 “(C) safety planning, including—
2 “(i) development of State strategic
3 safety plans consistent with section 150;
4 “(ii) incorporation of work zone safety
5 into planning; and
6 “(iii) training in the development of
7 data systems related to highway safety;
8 “(D) operations planning, including—
9 “(i) developing training of the integra-
10 tion of transportation system operations
11 and management into the transportation
12 planning process; and
13 “(ii) training and best practices re-
14 lated to regional concepts of operations;
15 “(E) freight planning, including—
16 “(i) modeling of freight at a regional
17 and statewide level; and
18 “(ii) techniques for engaging the
19 freight community with the planning pro-
20 cess;
21 “(F) air quality planning, including—
22 “(i) assisting new and existing non-
23 attainment and maintenance areas in de-
24 veloping the technical capacity to perform
25 air quality conformity analysis;

1 “(ii) providing training on areas such
2 as modeling and data collection to support
3 air quality planning and analysis;

4 “(iii) developing concepts and tech-
5 niques to assist areas in meeting air qual-
6 ity performance timeframes; and

7 “(iv) developing materials to explain
8 air quality issues to decision makers and
9 the public; and

10 “(G) integration of environment and plan-
11 ning.

12 “(3) USE OF FUNDS.—The Secretary shall use
13 amounts made available under paragraph (4) to
14 make grants to, or enter into contracts, cooperative
15 agreements, and other transactions with, a Federal
16 agency, State agency, local agency, federally recog-
17 nized Indian tribal government or tribal consortium,
18 authority, association, nonprofit or for-profit cor-
19 poration, or institution of higher education for re-
20 search, program development, information collection
21 and dissemination, and technical assistance.

22 “(4) SET-ASIDE.—

23 “(A) IN GENERAL.—On October 1 of each
24 fiscal year, the Secretary shall, after making
25 the deductions authorized by subsections (a)

1 and (f) of section 104, set aside \$20,000,000 of
2 the funds authorized for the surface transpor-
3 tation program to carry out this subsection.

4 “(B) FEDERAL SHARE.—The Federal
5 share of the cost of an activity carried out
6 using funds made available under subparagraph
7 (A) shall not exceed 100 percent.

8 “(C) AVAILABILITY.—Funds made avail-
9 able under subparagraph (A) shall remain avail-
10 able until expended.”.

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1 **Subtitle F—Environment**

2 **SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLU-**
3 **TION ABATEMENT; CONTROL OF INVASIVE**
4 **PLANT SPECIES AND ESTABLISHMENT OF NA-**
5 **TIVE SPECIES.**

6 (a) MODIFICATION TO NHS/STP FOR ENVIRON-
7 MENTAL RESTORATION, POLLUTION ABATEMENT, AND
8 INVASIVE SPECIES.—

9 (1) MODIFICATIONS TO NATIONAL HIGHWAY
10 SYSTEM.—Section 103(b)(6) of title 23, United
11 States Code, is amended by adding at the end the
12 following:

13 “(Q) Environmental restoration and pollu-
14 tion abatement in accordance with section 165.

15 “(R) Control of invasive plant species and
16 establishment of native species in accordance
17 with section 166.”.

18 (2) MODIFICATIONS TO SURFACE TRANSPOR-
19 TATION PROGRAM.—Section 133(b) of title 23, is
20 amended by striking paragraph (14) and inserting
21 the following:

22 “(14) Environmental restoration and pollution
23 abatement in accordance with section 165.

1 **“§ 166. Control of invasive plant species and estab-**
2 **lishment of native species**

3 “(a) DEFINITIONS.—

4 “(1) INVASIVE PLANT SPECIES—In this section,
5 the term ‘invasive plant species’ means a nonindige-
6 nous species the introduction of which causes or is
7 likely to cause economic or environmental harm or
8 harm to human health.

9 “(2) NATIVE PLANT SPECIES.—In this section,
10 the term ‘native plant species’ means, with respect
11 to a particular ecosystem, a species that, other than
12 as result of an introduction, historically occurred or
13 currently occurs in that ecosystem.

14 “(b) CONTROL OF SPECIES.—

15 “(1) IN GENERAL.—In accordance with all ap-
16 plicable Federal law (including regulations), funds
17 made available to carry out this section may be used
18 for—

19 “(A) participation in the control of invasive
20 plant species; and

21 “(B) the establishment of native species.

22 “(2) INCLUDED ACTIVITIES.—The participation
23 and establishment under paragraph (1) may
24 include—

1 “(A) participation in statewide inventories
2 of invasive plant species and desirable plant
3 species;

4 “(B) regional native plant habitat con-
5 servation and mitigation;

6 “(C) native revegetation; and

7 “(D) training.

8 “(3) CONTRIBUTIONS.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), an activity described in paragraph
11 (1) may be carried out concurrently with, in ad-
12 vance of, or following the construction of a
13 project funded under this title.

14 “(B) CONDITION FOR ACTIVITIES CON-
15 DUCTED IN ADVANCE OF PROJECT CONSTRUC-
16 TION.—An activity described in paragraph (1)
17 may be carried out in advance of a construction
18 of a project only if the activity is carried out in
19 accordance with all applicable requirements of
20 Federal law (including regulations) and State
21 transportation planning processes.”.

22 “(c) CONFORMING AMENDMENT.—The analysis for
23 subchapter I of chapter 1 of title 23, United States Code,
24 is amended by adding at the end the following:

“165. Eligibility for environmental restoration and pollution abatement.”.

“166. Control of invasive plant species and establishment of native species.”.

1 **SEC. 1602. CLARIFICATION REGARDING ENVIRONMENTAL**
2 **IMPACT STATEMENTS PREPARED BY STATE**
3 **AND LOCAL TRANSPORTATION AGENCIES.**

4 (a) IN GENERAL.—Subchapter I of chapter 1 of title
5 23, United States Code (as amended by section 1601(b))
6 is amended by adding at the end the following:

7 **“§ 167. Clarification regarding environmental impact**
8 **statements prepared by State and local**
9 **transportation agencies**

10 “(a) IN GENERAL.—A project sponsor that is a State
11 or local governmental entity eligible to receive funds under
12 this chapter or chapter 53 of title 49 may—

13 “(1) at the discretion of the Secretary, serve as
14 a joint lead agency with the Department for the pur-
15 pose of preparing any environmental document
16 under the National Environmental Policy Act of
17 1969 (42 U.S.C. 4321 et seq.); and

18 “(2) prepare the environmental documents re-
19 quired in support of any action or approval by the
20 Secretary if the Secretary—

21 “(A) provides guidance in the preparation;

22 “(B) independently evaluates the docu-
23 ment; and

24 “(C) approves and adopts the document
25 before taking any subsequent action or making
26 any approval based on the document, regardless

1 of whether the action by or approval of the Sec-
2 retary results in Federal funding.

3 “(b) COMPLIANCE WITH COMMITMENTS.—The Sec-
4 retary shall ensure, to the maximum extent practicable,
5 that—

6 “(1) the project sponsor complies with all de-
7 sign and mitigation commitments made jointly by
8 the Secretary and the project sponsor in an environ-
9 mental document under this subsection; and

10 “(2) the environmental document is appro-
11 priately supplemented if project changes become nec-
12 essary.

13 “(c) ADDITIONAL USE OF DOCUMENT.—An environ-
14 mental document prepared in accordance with this sub-
15 section may be adopted or used by any Federal agency
16 making any approval to the same extent as the Federal
17 agency could adopt or use a document prepared by an-
18 other Federal agency.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 1309 of the Transportation Equity
21 Act for the 21st Century (112 Stat. 232) is re-
22 pealed.

23 (2) The analysis for subchapter I of chapter 1
24 of title 23, United States Code (as amended by sec-

1 tion 1601(b)), is amended by adding at the end the
2 following:

“167. Clarification regarding environmental impact statements prepared by
State and local transportation agencies.”.

3 **SEC. 1603.**

4 **【RESERVED】**

5 **SEC. 1604. NATIONAL SCENIC BYWAYS PROGRAM.**

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

8 (1) in subsection (a)(1), by striking “the roads
9 as” and all that follows and inserting “the roads
10 as—

11 “(A) National Scenic Byways;

12 “(B) All-American Roads; or

13 “(C) America’s Byways.”;

14 (2) in subsection (b)—

15 (A) in paragraph (1)(A), by striking “des-
16 ignated as” and all that follows and inserting
17 “designated as—

18 “(i) National Scenic Byways;

19 “(ii) All-American Roads; or

20 “(iii) America’s Byways; and”;

21 (B) in paragraph (2)—

22 (i) in subparagraph (A), by striking

23 “Byway or All-American Road” and insert-

6–8

1 ing “Byway, All-American Road, or 1 of
2 America’s Byways”; and

3 (ii) in subparagraph (B), by striking
4 “designation as a” and all that follows and
5 inserting “designation as—

6 “(i) a National Scenic Byway;

7 “(ii) an All-American Road; or

8 “(iii) 1 of America’s Byways; and”;

9 and

10 (3) in subsection (c)(4), by striking “passing
11 lane,”.

12 (b) RESEARCH, TECHNICAL ASSISTANCE, MAR-
13 KETING, AND PROMOTION.—Section 162 of title 23,
14 United States Code, is amended—

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

17 (2) by inserting after subsection (c) the fol-
18 lowing:

19 “(d) RESEARCH, TECHNICAL ASSISTANCE, MAR-
20 KETING, AND PROMOTION.—

21 “(1) IN GENERAL.—The Secretary may carry
22 out research, technical assistance, marketing, and
23 promotion with respect to State Scenic Byways, Na-
24 tional Scenic Byways, All-American Roads, and
25 America’s Byways.

6–9

1 “(2) COOPERATION, GRANTS, AND CON-
2 TRACTS.—The Secretary may make grants to, or
3 enter into contracts, cooperative agreements, and
4 other transactions with, any Federal agency, State
5 agency, authority, association, institution, for-profit
6 or nonprofit corporation, organization, foreign coun-
7 try, or person, to carry out projects and activities
8 under this subsection.

9 “(3) FUNDS.—The Secretary may use funds
10 made available for the National Scenic Byways Pro-
11 gram to carry out projects and activities under this
12 subsection.

13 “(4) PRIORITY.—The Secretary shall give pri-
14 ority under this subsection to partnerships that le-
15 verage Federal funds for research, technical assist-
16 ance, marketing and promotion.”; and

17 (3) in subsection (g) (as redesignated by para-
18 graph (1))—

19 (A) by striking “percent, except that, in”
20 and inserting the following: “percent, except
21 that—

22 “(1) in”; and

23 (B) by striking “non-Federal share.” and
24 inserting the following: “non-Federal share; and

6–10

1 “(2) the Federal share of the cost of carrying
2 out a project or activity under subsection (d) shall
3 not exceed 100 percent.”.

4 **SEC. 1605. RECREATIONAL TRAILS PROGRAM.**

5 (a) RECREATIONAL TRAILS PROGRAM FORMULA.—
6 Section 104(h)(1) of title 23, United States Code, is
7 amended—

8 (1) by striking “Whenever” and inserting the
9 following:

10 “(A) IN GENERAL.—In any case in which”;

11 (2) by striking “research and technical assist-
12 ance under the recreational trails program and for
13 the administration of the National Recreational
14 Trails Advisory Committee” and inserting “research,
15 technical assistance, and training under the rec-
16 reational trails program”; and

17 (3) by striking “The Secretary” and inserting
18 the following:

19 “(B) CONTRACTS AND AGREEMENTS.—The
20 Secretary”.

21 (b) RECREATIONAL TRAILS PROGRAM ADMINISTRA-
22 TION.—Section 206 of title 23, United States Code, is
23 amended—

24 (1) in subsection (c)—

6-11

1 (A) by redesignating paragraphs (1) and
2 (2) as subparagraphs (A) and (B), respectively,
3 and indenting appropriately;

4 (B) by striking “To be eligible for appor-
5 tionments under this section” and inserting the
6 following:

7 “(1) IN GENERAL.—To be eligible for appor-
8 tionments under this section”; and

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

10 “(2) OBLIGATION REQUIREMENT.—If a State
11 does not meet the requirements under paragraph (1)
12 within a fiscal year, the State shall not be eligible
13 for an apportionment in the following fiscal year.”;

14 (2) in subsection (d)—

15 (A) by striking paragraph (2) and insert-
16 ing the following:

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

20 “(A) maintenance and restoration of rec-
21 reational trails;

22 “(B) development and rehabilitation of
23 trailside and trailhead facilities and trail link-
24 ages for recreational trails;

6-12

1 “(C) purchase and lease of recreational
2 trail construction and maintenance equipment;

3 “(D) construction of new recreational
4 trails, except that, in the case of new rec-
5 reational trails crossing Federal land, construc-
6 tion of the trails shall be—

7 “(i) permissible under other law;

8 “(ii) necessary and recommended by a
9 statewide comprehensive outdoor recreation
10 plan that is—

11 “(I) required under the Land
12 and Water Conservation Fund Act of
13 1965 (16 U.S.C. 460l-4 et seq.); and

14 “(II) in effect;

15 “(iii) approved by the administering
16 agency of the State designated under sub-
17 section (c)(1)(A); and

18 “(iv) approved by each Federal agency
19 having jurisdiction over the affected land,
20 under such terms and conditions as the
21 head of the Federal agency determines to
22 be appropriate, except that the approval
23 shall be contingent on compliance by the
24 Federal agency with all applicable laws,
25 including—

6-13

1 “(I) the National Environmental
2 Policy Act of 1969 (42 U.S.C. 4321
3 et. seq.);

4 “(II) the Forest and Rangeland
5 Renewable Resources Planning Act of
6 1974 (16 U.S.C. 1600 et. seq.); and

7 “(III) the Federal Land Policy
8 and Management Act of 1976 (43
9 U.S.C. 1701 et. seq.);

10 “(E) acquisition of easements and fee sim-
11 ple title to property for recreational trails or
12 recreational trail corridors;

13 “(F) assessment of trail conditions for ac-
14 cessibility and maintenance;

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

18 “(H) development and dissemination of
19 publications and operation of educational pro-
20 grams to promote safety and environmental
21 protection, as those objectives relate to the use
22 of recreational trails, supporting non-law en-
23 forcement trail safety and trail use monitoring
24 patrol programs, and providing trail-related
25 training, but in an amount not to exceed 5 per-

6-14

1 cent of the apportionment made to the State for
2 the fiscal year; and

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

8 (B) in paragraph (3)—

9 (i) in subparagraph (D), by striking
10 “(2)(F)” and inserting “(2)(I)”; and

11 (ii) by adding at the end the fol-
12 lowing:

13 “(E) USE OF YOUTH CONSERVATION OR
14 SERVICE CORPS.—A State shall make available
15 not less than 10 percent of the apportionments
16 of the State to provide grants to, or to enter
17 into cooperative agreements or contracts with,
18 qualified youth conservation or service corps to
19 perform recreational trails program activities.”;
20 and

21 (3) in subsection (f)—

22 (A) in paragraph (1)—

23 (i) by inserting “and the Federal
24 share of the administrative costs of a
25 State” after “project”; and

6–15

1 (ii) by striking “not exceed 80 per-
2 cent” and inserting in its place “be deter-
3 mined in accordance with section 120(b)”;

4 (B) in paragraph (2)—

5 (i) in subparagraph (A), by striking
6 “80 percent of” and inserting “the amount
7 determined in accordance with section
8 120(b) for”; and

9 (ii) in subparagraph (B), by inserting
10 “sponsoring the project” after “Federal
11 agency”;

12 (C) by striking paragraph (5);

13 (D) by redesignating paragraph (4) as
14 paragraph (5);

15 (E) by inserting after paragraph (3) the
16 following:

17 “(4) USE OF RECREATIONAL TRAILS PROGRAM
18 FUNDS TO MATCH OTHER FEDERAL PROGRAM
19 FUNDS.—Notwithstanding any other provision of
20 law, funds made available under this section may be
21 used to pay the non-Federal matching share for
22 other Federal program funds that are—

23 “(A) expended in accordance with the re-
24 quirements of the Federal program relating to
25 activities funded and populations served; and

6-16

1 “(B) expended on a project that is eligible
2 for assistance under this section.”; and

3 (F) in paragraph (5) (as redesignated by
4 subparagraph (D)), by striking “80 percent”
5 and inserting “the Federal share as determined
6 in accordance with section 120(b)”;

7 (4) in subsection (h)—

8 (A) in paragraph (1), by inserting after
9 subparagraph (B) the following:

10 “(C) PLANNING AND ENVIRONMENTAL AS-
11 SESSMENT COSTS INCURRED PRIOR TO PROJECT
12 APPROVAL.—A project funded under any of
13 subparagraphs (A) through (H) of subsection
14 (d)(2) may permit preapproval planning and en-
15 vironmental compliance costs incurred not more
16 than 18 months before project approval to be
17 credited toward the non-Federal share in ac-
18 cordance with subsection (f).”;

19 (B) by striking paragraph (2) and insert-
20 ing the following:

21 “(2) WAIVER OF HIGHWAY PROGRAM REQUIRE-
22 MENTS.—A project funded under this section—

23 “(A) is intended to enhance recreational
24 opportunity;

6-17

1 “(B) is not considered to be a highway
2 project; and

3 “(C) is not subject to—

4 “(i) section 112, 113, 114, 116, 134,
5 135, 138, 217, or 301 of this title; or

6 “(ii) section 303 of title 49.”.

7 **SEC. 1606. EXEMPTION OF INTERSTATE SYSTEM.**

8 Subsection 103(c) of title 23, United States Code, is
9 amended by adding at the end the following:

10 “(5) EXEMPTION OF INTERSTATE SYSTEM.—

11 “(A) IN GENERAL.—Each highway and
12 portion of a highway on the Interstate System
13 shall not be listed on, or eligible for, the Na-
14 tional Register of Historic Places. The Inter-
15 state System shall be exempt from—

16 “(i) section 303 of title 49;

17 “(ii) section 138 of this title; and

18 “(iii) except as provided in subpara-
19 graph (B), section 106 of the National
20 Historic Preservation Act (16 U.S.C.
21 470f).

22 “(B) INDIVIDUAL ELEMENTS.—After tak-
23 ing into consideration the advice of the Depart-
24 ment of the Interior, the Secretary may provide
25 to an individual element of the Interstate Sys-

1 tem such protection under section 106 of the
2 National Historic Preservation Act (16 U.S.C.
3 470f) as is provided to districts, sites, buildings,
4 structures, and objects included on the National
5 Register of Historic Places under that section.”.

6 **SEC. 1607. STANDARDS.**

7 (a) IN GENERAL.—Section 109(a) of title 23, United
8 States Code, is amended—

9 (1) in paragraph (1), by striking “and” at the
10 end;

11 (2) in paragraph (2), by striking the period at
12 the end and inserting “; and”; and

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

14 “(3) consider the preservation, historic, scenic,
15 natural environmental, and community values.”.

16 (b) CONTEXT SENSITIVE DESIGN.—Section 109 of
17 title 23, United States Code, is amended by striking sub-
18 section (p) and inserting the following:

19 “(p) CONTEXT SENSITIVE DESIGN.—

20 “(1) IN GENERAL.—The Secretary shall encour-
21 age States to design projects funded under this title
22 that—

23 “(A) allow for the preservation of environ-
24 mental, scenic, or historic values;

25 “(B) ensure the safe use of the facility;

6-19

1 “(C) provide for consideration of the con-
2 text of the locality;

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

5 “(E) comply with subsection (a).

6 “(2) APPROVAL BY SECRETARY.—Notwith-
7 standing subsections (b) and (c), the Secretary may
8 approve a project described in paragraph (1) for the
9 National Highway System if the project is designed
10 to achieve the criteria specified in that paragraph.”.

11 **SEC. 1608. USE OF HIGH OCCUPANCY VEHICLE LANES.**

12 Section 102 of title 23, United States Code, is
13 amended by striking subsection (a) and inserting the fol-
14 lowing:

15 “(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER
16 REQUIREMENTS.—

17 “(1) DEFINITIONS.—In this subsection:

18 “(A) RESPONSIBLE AGENCY.—The term
19 ‘responsible agency’ means—

20 “(i) a State transportation depart-
21 ment; and

22 “(ii) a local agency in a State that is
23 responsible for transportation matters.

6–20

1 “(B) SERIOUSLY DEGRADED.—The term
2 ‘seriously degraded’, with respect to a high oc-
3 cupancy vehicle lane, means—

4 “(i) in the case of a high occupancy
5 vehicle lane of a freeway or similar type of
6 roadway, that the high occupancy vehicle
7 lane fails to permit a minimum average op-
8 erating speed of at least 45 miles per hour
9 90 percent of the time over a consecutive
10 180-day period during weekday peak travel
11 periods; and

12 “(ii) in the case of a high occupancy
13 vehicle lane of a roadway other than a
14 roadway described in clause (i), that the
15 minimum average operating speed, per-
16 formance threshold, and associated time
17 period of the high occupancy vehicle lane,
18 calculated and determined jointly by all ap-
19 plicable responsible agencies and based on
20 conditions unique to the roadway, are un-
21 satisfactory.

22 “(2) REQUIREMENTS.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), for each State, 1 or more respon-
25 sible agencies shall establish the occupancy re-

6-21

1 requirements of vehicles operating on high occu-
2 pancy vehicle lanes.

3 “(B) MINIMUM NUMBER OF OCCUPANTS.—
4 Except as provided in paragraph (3), an occu-
5 pancy requirement established under subpara-
6 graph (A) shall require at least 2 occupants per
7 vehicle for a vehicle operating on a high occu-
8 pancy vehicle lane.

9 “(3) EXCEPTIONS TO HOV OCCUPANCY RE-
10 QUIREMENTS.—

11 “(A) MOTORCYCLES.—For the purpose of
12 this subsection, a motorcycle—

13 “(i) shall not be considered to be a
14 single occupant vehicle; and

15 “(ii) shall be allowed to use a high oc-
16 cupancy vehicle lane unless a responsible
17 agency—

18 “(I) certifies to the Secretary the
19 use of a high occupancy vehicle lane
20 by a motorcycle would create a safety
21 hazard; and

22 “(II) restricts that the use of the
23 high occupancy vehicle lane by motor-
24 cycles.

6-22

1 “(B) LOW EMISSION AND ENERGY-EFFI-
2 CIENT VEHICLES.—

3 “(i) DEFINITION OF LOW EMISSION
4 AND ENERGY-EFFICIENT VEHICLE.—In
5 this subparagraph, the term ‘low emission
6 and energy-efficient vehicle’ means a vehi-
7 cle that has been certified by the Adminis-
8 trator of the Environmental Protection
9 Agency—

10 “(I)(aa) to have a 45-mile per
11 gallon or greater fuel economy high-
12 way rating; or

13 “(bb) to qualify as an alternative
14 fueled vehicle under section 301 of the
15 Energy Policy Act of 1992 (42 U.S.C.
16 13211); and

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

24 “(ii) EXEMPTION FOR LOW EMISSION
25 AND ENERGY-EFFICIENT VEHICLES.—A re-

6-23

1 sponsible agency may permit qualifying low
2 emission and energy-efficient vehicles that
3 do not meet applicable occupancy require-
4 ments (as determined by the responsible
5 agency) to use high occupancy vehicle
6 lanes if the responsible agency—

7 “(I) establishes a program that
8 addresses how those qualifying low
9 emission and energy-efficient vehicles
10 are selected and certified;

11 “(II) establishes requirements for
12 labeling qualifying low emission and
13 energy-efficient vehicles (including
14 procedures for enforcing those re-
15 quirements);

16 “(III) continuously monitors,
17 evaluates, and reports to the Sec-
18 retary on performance; and

19 “(IV) imposes such restrictions
20 on the use on high occupancy vehicle
21 lanes by vehicles that do not satisfy
22 established occupancy requirements as
23 are necessary to ensure that the per-
24 formance of individual high occupancy
25 vehicle lanes, and the entire high oc-

6-24

1 cupancy vehicle lane system, will not
2 become seriously degraded.

3 “(C) BICYCLES.—A responsible agency
4 may permit bicycles to use surface or street
5 high occupancy vehicle lanes if, as determined
6 by the responsible agency, there is insufficient
7 space within the roadway or public right-of-way
8 to establish and designate a bicycle lane.

9 “(D) TOLLING OF VEHICLES.—

10 “(i) IN GENERAL.—A responsible
11 agency may permit vehicles, in addition to
12 the vehicles described in paragraphs (A),
13 (B), and (E) that do not satisfy estab-
14 lished occupancy requirements, to use a
15 high occupancy vehicle lane only if the re-
16 sponsible agency charges those vehicles a
17 toll.

18 “(ii) APPLICABLE AUTHORITY.—In
19 imposing a toll under clause (i), a respon-
20 sible agency shall—

21 “(I) be subject to section 129;

22 “(II) establish a toll program
23 that addresses ways in which motor-
24 ists may enroll and participate in the
25 program;

6–25

1 “(III) develop, manage, and
2 maintain a system that will automati-
3 cally collect the tolls from covered ve-
4 hicles;

5 “(IV) continuously monitor,
6 evaluate, and report on performance
7 of the system;

8 “(V) establish such policies and
9 procedures as are necessary—

10 “(aa) to vary the toll
11 charged in order to manage the
12 demand for use of high occu-
13 pancy vehicle lanes; and

14 “(bb) to enforce violations;
15 and

16 “(VI) establish procedures to im-
17 pose such restrictions on the use of
18 high occupancy vehicle lanes by vehi-
19 cles that do not satisfy established oc-
20 cupancy requirements as are nec-
21 essary to ensure that the performance
22 of individual high occupancy vehicle
23 lanes, and the entire high occupancy
24 vehicle lane system, will not become
25 seriously degraded.

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1 “(E) DESIGNATED PUBLIC TRANSPOR-
2 TATION VEHICLES.—

3 “(i) DEFINITION OF DESIGNATED
4 PUBLIC TRANSPORTATION VEHICLE.—In
5 this subparagraph, the term ‘designated
6 public transportation vehicle’ means a vehi-
7 cle that—

8 “(I) provides designated public
9 transportation (as defined in section
10 221 of the Americans with Disabilities
11 Act of 1990 (42 U.S.C. 12141)); and

12 “(II)(aa) is owned or operated by
13 a public entity; or

14 “(bb) is operated under a con-
15 tract with a public entity.

16 “(ii) USE OF HIGH OCCUPANCY VEHI-
17 CLE LANES.—A responsible agency may
18 permit designated public transportation ve-
19 hicles that do not satisfy established occu-
20 pancy requirements to use high occupancy
21 vehicle lanes if the responsible agency—

22 “(I) requires the clear and identi-
23 fiable labeling of each designated pub-
24 lic transportation vehicle operating
25 under a contract with a public entity

6–27

1 with the name of the public entity on
2 all sides of the vehicle;

3 “(II) continuously monitors, eval-
4 uates, and reports on performance of
5 those designated public transportation
6 vehicles; and

7 “(III) imposes such restrictions
8 on the use of high occupancy vehicle
9 lanes by designated public transpor-
10 tation vehicles as are necessary to en-
11 sure that the performance of indi-
12 vidual high occupancy vehicle lanes,
13 and the entire high occupancy vehicle
14 lane system, will not become seriously
15 degraded.

16 “(F) HOV LANE MANAGEMENT, OPER-
17 ATION, AND MONITORING.—

18 “(i) IN GENERAL.—A responsible
19 agency that permits any of the exceptions
20 specified in this paragraph shall comply
21 with clauses (ii) and (iii).

22 “(ii) PERFORMANCE MONITORING,
23 EVALUATION, AND REPORTING.—A respon-
24 sible agency described in clause (i) shall es-
25 tablish, manage, and support a perform-

6-28

1 ance monitoring, evaluation, and reporting
2 program under which the responsible agen-
3 cy continuously monitors, assesses, and re-
4 ports on the effects that any vehicle per-
5 mitted to use a high occupancy vehicle lane
6 under an exception under this paragraph
7 may have on the operation of—

8 “(I) individual high occupancy
9 vehicle lanes; and

10 “(II) the entire high occupancy
11 vehicle lane system.

12 “(iii) OPERATION OF HOV LANE OR
13 SYSTEM.—A responsible agency described
14 in clause (i) shall limit use of, or cease to
15 use, any of the exceptions specified in this
16 paragraph if the presence of any vehicle
17 permitted to use a high occupancy vehicle
18 lane under an exception under this para-
19 graph seriously degrades the operation
20 of—

21 “(I) individual high occupancy
22 vehicle lanes; and

23 “(II) the entire high occupancy
24 vehicle lane system.”.

1 **SEC. 1609. BICYCLE TRANSPORTATION AND PEDESTRIAN**
2 **WALKWAYS.**

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

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

7 (2) in subsection (e), by striking “bicycles”
8 each place it appears and inserting “pedestrians or
9 bicyclists”;

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

12 “(f) FEDERAL SHARE.—The Federal share of the
13 construction of bicycle transportation facilities and pedes-
14 trian walkways, and for carrying out nonconstruction
15 projects relating to safe pedestrian and bicycle use, shall
16 be determined in accordance with section 120(b).”;

17 (4) by redesignating subsection (j) as sub-
18 section (l);

19 (5) by inserting after subsection (i) the fol-
20 lowing:

21 “(j) USER FEES.—At the option of each State, sec-
22 tion 301 shall not apply to a shared use path if—

23 “(1) the shared use path is not located within
24 a highway right-of-way; and

6–30

1 “(2) income from user fees collected in the
2 State is used for ongoing maintenance and operation
3 of shared use paths in the State.

4 “(k) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

5 “(1) IN GENERAL.—The Secretary shall select
6 and make grants to a national, nonprofit organiza-
7 tion engaged in promoting bicycle and pedestrian
8 safety—

9 “(A) to operate a national bicycle and pe-
10 destrian clearinghouse;

11 “(B) to develop information and edu-
12 cational programs regarding walking and bicy-
13 cling; and

14 “(C) to disseminate techniques and strate-
15 gies for improving bicycle and pedestrian safety.

16 “(2) FUNDING.—The Secretary may use funds
17 apportioned under section 104(n) to carry out this
18 subsection.

19 “(3) APPLICABILITY OF TITLE 23.—Funds au-
20 thorized to be appropriated to carry out this sub-
21 section shall be available for obligation in the same
22 manner as if the funds were apportioned under sec-
23 tion 104, except that the funds shall remain avail-
24 able until expended.”; and

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1 (6) in subsection (l) (as redesignated by para-
2 graph (4))—

3 (A) by redesignating paragraph (4) as
4 paragraph (5); and

5 (B) by inserting after paragraph (3) the
6 following:

7 “(4) SHARED USE PATH.—The term ‘shared
8 use path’ means a multiuse trail or other path that
9 is—

10 “(A) physically separated from motorized
11 vehicular traffic by an open space or barrier, ei-
12 ther within a highway right-of-way or within an
13 independent right-of-way; and

14 “(B) usable for transportation purposes
15 (including by pedestrians, bicyclists, skaters,
16 equestrians, and other nonmotorized users).”.

17 (b) RESERVATION OF FUNDS.—Section 104 of title
18 23, United States Code (as amended by section 1601(b)),
19 is amended by adding at the end the following:

20 “(n) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—
21 On October 1 of each of fiscal years 2004 through 2009,
22 the Secretary, after making the deductions authorized by
23 subsections (a) and (f), shall set aside \$500,000 of the
24 remaining funds apportioned under subsection (b)(3) for

1 use in carrying out the bicycle and pedestrian safety grant
2 program under section 217.”.

3 **SEC. 1610. IDLING REDUCTION FACILITIES IN INTERSTATE**
4 **RIGHTS-OF-WAY.**

5 Section 111 of title 23, United States Code, is
6 amended by adding at the end the following:

7 “(d) IDLING REDUCTION FACILITIES IN INTERSTATE
8 RIGHTS-OF-WAY.—

9 “(1) IN GENERAL.—Notwithstanding subsection
10 (a), a State may—

11 “(A) permit electrification or other idling
12 reduction facilities and equipment, for use by
13 motor vehicles used for commercial purposes, to
14 be placed in rest and recreation areas, and in
15 safety rest areas, constructed or located on
16 rights-of-way of the Interstate System in the
17 State; and

18 “(B) may charge, or permit charges, for
19 the use of those facilities.

20 “(2) PURPOSE.—The exclusive purpose of the
21 facilities described in paragraph (1) (or similar tech-
22 nologies) shall be to enable operators of motor vehi-
23 cles used for commercial purposes—

24 “(A) to turn off their engines while
25 parked; and

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1 “(B) to have heating, air conditioning,
2 electricity, and communication services in the
3 vehicle without use of the engine.”.

4 **SEC. 1611. TOLL PROGRAMS.**

5 (a) INTERSTATE SYSTEM RECONSTRUCTION AND RE-
6 HABILITATION PILOT PROGRAM.—Section 1216(b) of the
7 Transportation Equity Act for the 21st Century (23
8 U.S.C. 129 note; 112 Stat. 212)—

9 (1) is amended—

10 (A) in paragraph (1)—

11 (i) by striking “The Secretary” and
12 inserting “Notwithstanding section 301,
13 the Secretary”; and

14 (ii) by striking “that could not other-
15 wise be adequately maintained or function-
16 ally improved without the collection of
17 tolls”;

18 (B) in paragraph (3), by striking subpara-
19 graph (C) and inserting the following:

20 “(C) An analysis demonstrating that fi-
21 nancing the reconstruction or rehabilitation of
22 the facility with the collection of tolls under this
23 pilot program is the most efficient, economical,
24 or expeditious way to advance the project.”;

25 (C) in paragraph (4)—

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

3 “(A) the State’s analysis showing that fi-
4 nancing the reconstruction or rehabilitation of a
5 facility with the collection of tolls under the
6 pilot program is the most efficient, economical,
7 or expeditious way to advance the project;”;

8 (ii) by striking subparagraph (B) and
9 inserting the following:

10 “(B) the facility needs reconstruction or
11 rehabilitation, including major work that may
12 require replacing sections of the existing facility
13 on new alignment;”;

14 (iii) by striking subparagraph (C);

15 and

16 (iv) by redesignating subparagraphs
17 (D) and (E) as subparagraphs (C) and
18 (D), respectively;

19 (2) is redesignated as subsection (d) of section
20 129 of title 23, United States Code, and moved to
21 appear at the end of that section; and

22 (3) by striking “of title 23, United States
23 Code” each place it appears.

24 (b) VARIABLE TOLL PRICING PROGRAM.—Section
25 129 of title 23, United States Code (as amended by sub-

1 section (a)(2)), is amended by adding at the end the fol-
2 lowing:

3 “(e) VARIABLE TOLL PRICING PROGRAM.—

4 “(1) DEFINITIONS.—In this subsection:

5 “(A) ELIGIBLE TOLL FACILITY.—The term
6 ‘eligible toll facility’ includes—

7 “(i) a facility in existence on the date
8 of enactment of this subsection that col-
9 lects tolls;

10 “(ii) a facility in existence on the date
11 of enactment of this subsection that serves
12 high occupancy vehicle lanes; and

13 “(iii) a facility which, after the date of
14 enactment of this subsection, is modified to
15 create additional capacity for the collection
16 of tolls.

17 “(B) NONATTAINMENT AREA.—The term
18 ‘nonattainment area’ has the meaning given the
19 term in section 171 of the Clean Air Act (42
20 U.S.C. 7501).

21 “(2) ESTABLISHMENT.—Notwithstanding sec-
22 tions 129 and 301, the Secretary may permit a
23 State or public authority to collect a toll from motor
24 vehicles at an eligible toll facility for any highway,

1 bridge, or tunnel, including facilities on the Inter-
2 state System—

3 “(A) to manage high levels of congestion;

4 or

5 “(B) to reduce emissions in a nonattain-
6 ment area or maintenance area.

7 “(3) LIMITATION ON USE OF REVENUES.—

8 “(A) IN GENERAL.—All toll revenues re-
9 ceived under paragraph (2) shall be used by a
10 State or public authority for—

11 “(i) debt service;

12 “(ii) a reasonable return on invest-
13 ment of any private financing; and

14 “(iii) the costs necessary for proper
15 operation and maintenance of any facilities
16 under paragraph (2) (including reconstruc-
17 tion, resurfacing, restoration, and rehabili-
18 tation); and

19 “(iv) projects eligible for Federal as-
20 sistance under this title.

21 “(B) REQUIREMENTS.—

22 “(i) VARIABLE PRICE REQUIRE-
23 MENT.—The Secretary shall require, for
24 each facility that charges tolls under this
25 subsection, that the tolls vary in price ac-

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1 cording to time of day, as appropriate to
2 manage congestion or improve air quality.

3 “(ii) HOV PASSENGER REQUIRE-
4 MENTS.—In addition to the exceptions to
5 the high occupancy vehicle passenger re-
6 quirements established under section
7 102(a)(2), a State may permit motor vehi-
8 cles with fewer than 2 occupants to oper-
9 ate in high occupancy vehicle lanes as part
10 of a variable toll pricing program estab-
11 lished under this subsection.

12 “(C) AGREEMENT.—

13 “(i) IN GENERAL.—Before the Sec-
14 retary may permit a facility to charge tolls
15 under this subsection, the Secretary and
16 the applicable State or public authority
17 shall enter into an agreement for each fa-
18 cility incorporating the conditions de-
19 scribed in subparagraphs (A) and (B).

20 “(ii) TERMINATION.—An agreement
21 under clause (i) shall terminate with re-
22 spect to a facility upon the decision of the
23 State or public authority to discontinue the
24 variable tolling program under this sub-
25 section for the facility.

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1 “(iii) DEBT.—If there is any debt out-
2 standing on a facility at the time at which
3 the decision is made to discontinue the
4 program under this subsection with respect
5 to the facility, the facility may continue to
6 charge tolls in accordance with the terms
7 of the agreement until such time as the
8 debt is retired.

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

15 “(4) ELIGIBILITY.—To be eligible to participate
16 in the program under this subsection, a State or
17 public authority shall provide to the Secretary—

18 “(A) a description of the congestion or air
19 quality problems sought to be addressed under
20 the program;

21 “(B) a description of—

22 “(i) the goals sought to be achieved
23 under the program; and

1 “(ii) the performance measures that
2 would be used to gauge the success made
3 toward reaching those goals; and

4 “(C) such other information as the Sec-
5 retary may require.”.

6 (c) CONFORMING AMENDMENTS.—

7 (1) IN GENERAL.—Section 1012 of the Inter-
8 modal Surface Transportation Efficiency Act (23
9 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is
10 amended by striking subsection (b).

11 (2) CONTINUATION OF PROGRAM.—Notwith-
12 standing the amendment made by paragraph (1),
13 the Secretary shall monitor and allow any value pric-
14 ing program established under a cooperative agree-
15 ment in effect on the day before the date of enact-
16 ment of this Act to continue.

17 **SEC. 1612. FEDERAL REFERENCE METHOD.**

18 (a) IN GENERAL.—Section 6102 of the Transpor-
19 tation Equity Act for the 21st Century (42 U.S.C. 7407
20 note; 112 Stat. 464) is amended by striking subsection
21 (e) and inserting the following:

22 “(e) FIELD STUDY.—Not later than 2 years after the
23 date of enactment of the **【Safe, Accountable, Flexible, and**
24 **Efficient Transportation Equity Act of 2003】**, the Admin-
25 istrator shall—

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1 “(1) conduct a field study of the ability of the
2 PM_{2.5} Federal Reference Method to differentiate
3 those particles that are larger than 2.5 micrograms
4 in diameter;

5 “(2) develop a Federal reference method to
6 measure directly particles that are larger than 2.5
7 micrograms in diameter without reliance on meas-
8 urement of particles that are equal to or smaller
9 than 2.5 micrograms in diameter;

10 “(3) for the purpose of measurement, consider
11 crystal material to be particles that are more than
12 2.5 micrograms in diameter;

13 “(4) develop a method of measuring different
14 kinds of particles; and

15 “(5) submit a report on the study and respon-
16 sibilities of the Administrator under paragraphs (1)
17 through (4) to—

18 “(A) the Committee on Commerce of the
19 House of Representatives; and

20 “(B) the Committee on Environment and
21 Public Works of the Senate.”.

22 **SEC. 1613. ADDITION OF PARTICULATE MATTER AREAS TO**
23 **CMAQ.**

24 Section 104(b)(2) of title 23, United States Code, is
25 amended—

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1 (1) in subparagraph B—

2 (A) in the matter preceding clause (i), by
3 striking “ozone or carbon monoxide” and in-
4 serting “ozone, carbon monoxide, or fine partic-
5 ulate matter (PM_{2.5})”;

6 (B) by striking clause (i) and inserting the
7 following:

8 “(i) 1.0, if at the time of apportion-
9 ment, the area is a maintenance area;”;

10 (C) in clause (vi), by striking “or” after
11 the semicolon; and

12 (D) in clause (vii), by striking “area as de-
13 scribed in section 149(b) for ozone,” and insert-
14 ing “area for ozone (as described in section
15 149(b)) or for PM-2.5”;

16 (2) by adding at the end the following:

17 “(viii) 1.0 if, at the time of apportion-
18 ment, any county that is not designated as
19 a nonattainment or maintenance area
20 under the 1-hour ozone standard is des-
21 ignated as nonattainment under the 8-hour
22 ozone standard;

23 “(ix) 1.2 if, at the time of apportion-
24 ment, the area is not a nonattainment or
25 maintenance area as described in section

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1 149(b) for ozone or carbon monoxide, but
2 is an area designated nonattainment under
3 the PM–2.5 standard.”;

4 (3) by striking subparagraph (C) and inserting
5 the following:

6 “(C) ADDITIONAL ADJUSTMENT FOR CAR-
7 BON MONOXIDE AREAS.—If, in addition to
8 being designated as a nonattainment or mainte-
9 nance area for ozone as described in section
10 149(b), any county within the area was also
11 classified under subpart 3 of part D of title I
12 of the Clean Air Act (42 U.S.C. 7512 et seq.)
13 as a nonattainment or maintenance area de-
14 scribed in section 149(b) for carbon monoxide,
15 the weighted nonattainment or maintenance
16 area population of the county, as determined
17 under clauses (i) through (vi) of subparagraph
18 (B), shall be further multiplied by a factor of
19 1.2.”;

20 (4) by redesignating subparagraph (D) and (E)
21 as subparagraphs (E) and (F) respectively; and

22 (5) by inserting after subparagraph (C) the fol-
23 lowing:

24 “(D) ADDITIONAL ADJUSTMENT FOR PM
25 2.5 AREAS.—If, in addition to being designated

1 as a nonattainment or maintenance area for
2 ozone or carbon monoxide, or both as described
3 in section 149(b), any county within the area
4 was also designated under the PM-2.5 standard
5 as a nonattainment or maintenance area, the
6 weighted nonattainment or maintenance area
7 population of those counties shall be further
8 multiplied by a factor of 1.2.”.

9 **SEC. 1614. ADDITION TO ELIGIBLE PROJECTS.**

10 Section 149(b) of title 23, United States Code, is
11 amended—

12 (1) in the matter preceding paragraph (1), by
13 striking “7513(b)) or is or was” and inserting
14 “7513(b)), is or was”;

15 (2) in paragraph (4), by striking “or” at the
16 end;

17 (3) in paragraph (5), by striking the period at
18 the end and inserting a semicolon; and

19 (4) by adding at the end the following:

20 “(6) if the project or program is for the pur-
21 chase of alternative fuel, as defined in section 13211
22 of title 42, United States Code.”.

23 **SEC. 1615. IMPROVED INTERAGENCY CONSULTATION.**

24 Section 149 of title 23, United States Code, is
25 amended by adding at the end the following:

1 “(g) INTERAGENCY CONSULTATION.—The Secretary
2 shall encourage States and metropolitan planning organi-
3 zations to consult with State and local air quality agencies
4 in nonattainment and maintenance areas on the estimated
5 emission reductions from proposed congestion mitigation
6 and air quality improvement programs and projects.”.

7 **SEC. 1616. EVALUATION AND ASSESSMENT OF CMAQ**
8 **PROJECTS.**

9 Section 149 of title 23, United States Code (as
10 amended by section 1617), is amended by adding at the
11 end the following:

12 “(h) EVALUATION AND ASSESSMENT OF
13 PROJECTS.—

14 “(1) IN GENERAL.—The Secretary, in consulta-
15 tion with the Administrator of the Environmental
16 Protection Agency, shall evaluate and assess a rep-
17 resentative sample of projects funded under the con-
18 gestion mitigation and air quality program to—

19 “(A) determine the direct and indirect im-
20 pact of the projects on air quality and conges-
21 tion levels; and

22 “(B) ensure the effective implementation
23 of the program.

24 “(2) DATABASE.—Using appropriate assess-
25 ments of projects funded under the congestion miti-

1 gation and air quality program and results from
2 other research, the Secretary shall maintain and dis-
3 seminate a cumulative database describing the im-
4 pacts of the projects.”.

5 **SEC. 1617. SYNCHRONIZED PLANNING AND CONFORMITY**
6 **TIMELINES, REQUIREMENTS, AND HORIZON.**

7 (a) METROPOLITAN PLANNING.—

8 (1) DEVELOPMENT OF LONG-RANGE TRANSPOR-
9 TATION PLAN.—Section 134(g)(1) of title 23, United
10 States Code, is amended by striking “periodically,
11 according to a schedule that the Secretary deter-
12 mines to be appropriate,” and inserting “every 4
13 years areas designated as nonattainment, as defined
14 in section 107(d) of the Clean Air Act (42 U.S.C.
15 7407(d)) and areas that were nonattainment that
16 have been redesignated to attainment in accordance
17 with section 107(d)(3) of that Act (42 U.S.C.
18 7407(d)(3)) with a maintenance plan under section
19 175A of that Act (42 U.S.C. 7505a), or every 5
20 years in areas designated as attainment, as defined
21 in section 107(d) of that Act (42 U.S.C. 7407(d)),”.

22 (2) METROPOLITAN TRANSPORTATION IM-
23 PROVEDMENT PROGRAM.—Section 134(h) of title 23,
24 United States Code, is amended—

1 (A) in paragraph (1)(D), by striking “2
2 years” and inserting “4 years”; and

3 (B) in paragraph (2)(A), by striking “3-
4 year” and inserting “4-year”.

5 (3) STATEWIDE PLAN.—Section 135(e)(1) of
6 title 23, United States Code, is amended by insert-
7 ing after “period,” the following: “updated at least
8 every 4 years”.

9 (4) STATEWIDE TRANSPORTATION IMPROVE-
10 MENT PROGRAM.—Section 135(f)(1)(A) of title 23,
11 United States Code, is amended by inserting after
12 “program” the following: “(which program shall
13 cover a period of 4 years and be updated every 4
14 years)”.

15 (5) FINAL REGULATIONS.—Not later than 18
16 months after the date of enactment of the [Safe,
17 Accountable, Flexible, and Efficient Transportation
18 Equity Act of 2003], the Secretary shall promulgate
19 regulations regarding metropolitan and statewide
20 planning.

21 (b) SYNCHRONIZED CONFORMITY DETERMINA-
22 TION.—Section 176(c) of the Clean Air Act (42 U.S.C.
23 7506(c)) is amended—

24 (1) in paragraph (2)—

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1 (A) by striking “(2) Any transportation
2 plan” and inserting the following:

3 “(2) TRANSPORTATION PLANS AND PRO-
4 GRAMS.—Any transportation plan”;

5 (B) in subparagraph (C)(iii), by striking
6 the period at the end and inserting a semicolon;

7 (C) in subparagraph (D)—

8 (i) by striking “Any project” and in-
9 serting “any project”; and

10 (ii) by striking the period at the end
11 and inserting “; and”; and

12 (D) by adding at the end the following:

13 “(E) the appropriate metropolitan plan-
14 ning organization shall redetermine conformity
15 of existing transportation plans and programs
16 not later than 2 years after the date on which
17 the Administrator—

18 “(i) finds a motor vehicle emissions
19 budget to be adequate in accordance with
20 section 93.118(e)(4) of title 40, Code of
21 Federal Regulations (as in effect on Octo-
22 ber 1, 2003); and

23 “(ii) approves an implementation plan
24 that establishes a motor vehicle emissions
25 budget, if that budget has not yet been

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1 used in a conformity determination prior
2 to approval.”;

3 (2) in paragraph (4)(B)(ii), by striking “but in
4 no case shall such determinations for transportation
5 plans and programs be less frequent than every 3
6 years; and” and inserting “but the frequency for
7 making conformity determinations on updated trans-
8 portation plans shall be every 4 years, except in a
9 case in which—

10 “(I) the metropolitan planning
11 organization elects to update a trans-
12 portation plan more frequently; or

13 “(II) the metropolitan planning
14 organization is required to determine
15 conformity in accordance with para-
16 graph (2)(E); and”;

17 (3) in paragraph (4)(B)—

18 (A) in clause (ii), by striking “and” at the
19 end;

20 (B) in clause (iii), by striking the period at
21 the end and inserting “; and”; and

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

23 “(iv) address the effects of the most
24 recent population, economic, employment,
25 travel, transit ridership, congestion, and

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1 induced travel demand information in the
2 development of the latest travel and emis-
3 sions models.”; and

4 (4) by adding at the end the following:

5 “(7) CONFORMITY HORIZON FOR TRANSPOR-
6 TATION PLANS.—

7 “(A) IN GENERAL.—For the purposes of
8 this section, a transportation plan in a non-
9 attainment or maintenance area shall be consid-
10 ered to be a transportation plan or a portion of
11 a transportation plan that extends for the long-
12 est of the following periods:

13 “(i) The first 10-year period of any
14 such transportation plan.

15 “(ii) The latest year in the implemen-
16 tation plan applicable to the area that con-
17 tains a motor vehicle emission budget.

18 “(iii) The year after the completion
19 date of a regionally significant project, if
20 the project requires approval before the
21 subsequent conformity determination.

22 “(B) EXCEPTION.—In a case in which an
23 area has a revision to an implementation plan
24 under section 175A(b) and the Administrator
25 has found the motor vehicle emissions budgets

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1 from that revision to be adequate in accordance
2 with section 93.118(e)(4) of title 40, Code of
3 Federal Regulations (as in effect on October 1,
4 2003), or has approved the revision, the trans-
5 portation plan shall be considered to be a trans-
6 portation plan or portion of a transportation
7 plan that extends through the last year of the
8 implementation plan required under section
9 175A(b).

10 “(8) DEFINITIONS.—In this subsection:

11 “(A) PROJECT.—The term ‘project’ in-
12 cludes only a project that is—

13 “(i) a regionally significant project; or

14 “(ii) a project that makes a signifi-
15 cant revision to an existing project.

16 “(B) REGIONALLY SIGNIFICANT
17 PROJECT.—

18 “(i) IN GENERAL.—The term ‘region-
19 ally significant project’ means a transpor-
20 tation project that is on a facility that
21 serves a regional transportation need,
22 including—

23 “(I) access to and from the area
24 outside of the region;

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1 “(II) access to and from major
2 planned developments, including new
3 retail malls, sports complexes, or
4 transportation terminals; and

5 “(III) most transportation termi-
6 nals.

7 “(ii) PRINCIPLE ARTERIALS AND
8 FIXED GUIDEWAYS.—The term ‘regionally
9 significant project’ includes, at a
10 minimum—

11 “(I) all principal arterial high-
12 ways; and

13 “(II) all fixed guideway transit
14 facilities that offer an alternative to
15 regional highway travel.

16 “(iii) ADDITIONAL PROJECTS.—The
17 interagency consultation process and pro-
18 cedures described in section 93.105(c) of
19 title 40, Code of Federal Regulations, shall
20 be used to make determinations as to
21 whether minor arterial highways and other
22 transportation projects should be consid-
23 ered ‘regionally significant projects’.

24 “(iv) EXCLUSIONS.—The term ‘re-
25 gionally significant project’ does not in-

1 clude any project of a type listed in sec-
2 tions 93.126 or 127 of title 40, Code of
3 Federal Regulations.

4 “(C) SIGNIFICANT REVISION.—The term
5 ‘significant revision’ means—

6 “(i) with respect to a regionally sig-
7 nificant project, a significant change in de-
8 sign concept or scope to the project; and

9 “(ii) with respect to any other kind of
10 project, a change that converts a project
11 that is not a regionally significant project
12 into a regionally significant project.”.

13 **SEC. 1618. TRANSITION TO NEW AIR QUALITY STANDARDS.**

14 (a) METHODS OF CONFORMITY DETERMINATION BE-
15 FORE BUDGETS ARE AVAILABLE.—Section 176(c) of the
16 Clean Air Act (42 U.S.C. 7506(c)) is amended by striking
17 paragraph (3) and inserting the following:

18 “(3) METHODS OF CONFORMITY DETERMINA-
19 TION BEFORE BUDGET IS AVAILABLE.—

20 “(A) IN GENERAL.—Until such time as a
21 motor vehicle emission budget from an imple-
22 mentation plan submitted for a national ambi-
23 ent air quality standard is determined to be
24 adequate in accordance with section
25 93.118(e)(4) of title 40, Code of Federal Regu-

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1 lations (as in effect on October 1, 2003), or the
2 submitted implementation plan is approved,
3 conformity of such a plan, program, or project
4 shall be demonstrated, as selected through the
5 consultation process required under paragraph
6 (4)(B)(i), with—

7 “(i) a motor vehicle emission budget
8 that has been found adequate in accord-
9 ance with section 93.118(e)(4) of title 40,
10 Code of Federal Regulations (as in effect
11 on October 1, 2003), or that has been ap-
12 proved, from an implementation plan for
13 the most recent applicable national ambi-
14 ent air quality standard addressing the
15 same pollutant; or

16 “(ii) other such tests as the Adminis-
17 trator shall determine to ensure that—

18 “(I) the transportation plan or
19 program—

20 “(aa) is consistent with the
21 most recent estimates of mobile
22 source emissions;

23 “(bb) provides for the expe-
24 ditious implementation of trans-
25 portation control measures in the

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1 applicable implementation plan;
2 and

3 “(cc) with respect to an
4 ozone or carbon monoxide non-
5 attainment area, contributes to
6 annual emissions reductions con-
7 sistent with sections 182(b)(1)
8 and 187(a)(7); and

9 “(II) the transportation project—
10 “(aa) comes from a con-
11 forming transportation plan and
12 program described in this sub-
13 paragraph; and

14 “(bb) in a carbon monoxide
15 nonattainment area, eliminates
16 or reduces the severity and num-
17 ber of violations of the carbon
18 monoxide standards in the area
19 substantially affected by the
20 project.

21 “(B) DETERMINATION FOR A TRANSPOR-
22 TATION PROJECT IN A CARBON MONOXIDE NON-
23 ATTAINMENT AREA.—A determination under
24 subparagraph (A)(ii)(II)(bb) may be made as
25 part of either the conformity determination for

1 the transportation program or for the individual
2 project taken as a whole during the environ-
3 mental review phase of project development.

4 (b) USE OF NON-FEDERAL FUNDS DURING
5 LAPSE.—Section 176(c) of the Clean Air Act (42 U.S.C.
6 7506(c)) (as amended by section 1618(b)(3)) is
7 amended—

8 (1) by redesignating paragraph (8) as para-
9 graph (9); and

10 (2) by inserting after paragraph (7) the fol-
11 lowing:

12 “(8) USE OF NON-FEDERAL FUNDS DURING
13 LAPSE.—In the case of a project for which a review
14 under the National Environmental Policy Act of
15 1969 (42 U.S.C. 4321 et seq.) has been completed,
16 during the 3-year period beginning on the date of
17 completion of the review, non-Federal funds applied
18 toward right-of-way acquisition or design activities
19 in accordance with section 108(c) of title 23, United
20 States Code, during a period in which a nonattain-
21 ment or maintenance area does not have a con-
22 forming plan may be attributed to a State’s obli-
23 gated share of project funding under title 23 or title
24 49, United States Code, at such time as a transpor-

1 tation plan that includes the project is determined to
2 conform to the applicable implementation plan.”.

3 **SEC. 1619. REDUCED BARRIERS TO AIR QUALITY IMPROVE-**
4 **MENTS.**

5 Section 176(c)(2) of the Clean Air Act (42 U.S.C.
6 7506(c)(2)) (as amended by section 1619(b)) is
7 amended—

8 (1) by redesignating paragraph (9) as para-
9 graph (10); and

10 (2) by inserting after paragraph (8) the fol-
11 lowing:

12 “(9) SUBSTITUTION FOR TRANSPORTATION
13 CONTROL MEASURES.—

14 “(A) IN GENERAL.—Transportation con-
15 trol measures that are specified in an imple-
16 mentation plan may be replaced or added to the
17 implementation plan with alternate or addi-
18 tional transportation control measures if—

19 “(i) the substitute measures achieve
20 equivalent or greater emissions reductions
21 than the control measure to be replaced, as
22 demonstrated with an analysis that is con-
23 sistent with the methodology used for eval-
24 uating the replaced control measure in the
25 implementation plan;

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1 “(ii) the substitute control measures
2 are implemented—

3 “(I) in accordance with a sched-
4 ule that is consistent with the sched-
5 ule provided for control measures in
6 the implementation plan; or

7 “(II) if the implementation plan
8 date for implementation of the control
9 measure to be replaced has passed, as
10 soon as practicable after the imple-
11 mentation plan date;

12 “(iii) the substitute and additional
13 control measures are accompanied with evi-
14 dence of adequate personnel, funding, and
15 authority under State or local law to im-
16 plement, monitor, and enforce the control
17 measures;

18 “(iv) the substitute and additional
19 control measures were developed through a
20 collaborative process that included—

21 “(I) participation by representa-
22 tives of all affected jurisdictions (in-
23 cluding local air pollution control
24 agencies, the State air pollution con-

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1 trol agency, and State and local trans-
2 portation agencies);

3 “(II) consultation with the Ad-
4 ministrator; and

5 “(III) reasonable public notice
6 and opportunity for comment; and

7 “(v) the metropolitan planning organi-
8 zation, State air pollution control agency,
9 and the Administrator concur with the
10 equivalency of the substitute or additional
11 control measures.

12 “(B) NO REQUIREMENT FOR EXPRESS
13 PERMISSION.—The substitution or addition of a
14 transportation control measure in accordance
15 with this paragraph shall not be contingent on
16 there being any provision in the implementation
17 plan that expressly permits such a substitution
18 or addition.

19 “(C) NO REQUIREMENT FOR NEW CON-
20 FORMITY DETERMINATION.—The substitution
21 or addition of a transportation control measure
22 in accordance with this paragraph shall not
23 require—

24 “(i) a new conformity determination
25 for the transportation plan; or

1 “(ii) a revision of the implementation
2 plan.

3 “(D) CONTINUATION OF CONTROL MEAS-
4 URE BEING REPLACED.—A control measure
5 that is being replaced by a substitute control
6 measure under this paragraph shall remain in
7 effect until the substitute control measure is ap-
8 proved.

9 “(E) EFFECT OF APPROVAL.—Approval of
10 a substitute control measure shall constitute re-
11 scission of the previously applicable control
12 measure.”.

13 **SEC. 1620. CONFORMING AMENDMENTS.**

14 Section 176(c)(4) of the Clean Air Act (42 U.S.C.
15 7506(c)(4) is amended—

16 (1) by striking “(4)(A) No later than one year
17 after the date of enactment of the Clean Air Act
18 Amendments of 1990, the Administrator shall pro-
19 mulgate” and inserting the following:

20 “(4) CRITERIA AND PROCEDURES FOR DETER-
21 MINING CONFORMITY.—

22 “(A) IN GENERAL.—The Administrator
23 shall promulgate, and periodically update,”;

24 (2) in subparagraph (A)—

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1 (A) in the second sentence, by striking
2 “No later than one year after such date of en-
3 actment, the Administrator, with the concur-
4 rence of the Secretary of Transportation, shall
5 promulgate” and inserting the following:

6 “(B) TRANSPORTATION PLANS, PROGRAMS,
7 AND PROJECTS.—The Administrator, with the
8 concurrence of the Secretary of Transportation,
9 shall promulgate, and periodically update,”; and

10 (B) in the third sentence, by striking “A
11 suit” and inserting the following:

12 “(C) CIVIL ACTION TO COMPEL PROMUL-
13 GATION.—A civil action”; and

14 (3) by striking subparagraph (C) and inserting
15 the following:

16 “(C) INCLUSION OF CRITERIA AND PROCE-
17 DURES IN SIP.—Not later than 2 years after
18 the date of enactment of the **【Safe, Account-
19 able, Flexible, and Efficient Transportation Eq-
20 uity Act of 2003】**, the procedures under sub-
21 paragraph (A) shall include a requirement that
22 each State include in the State implementation
23 plan criteria and procedures for consultation in
24 accordance with the Administrator’s criteria

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1 and procedures for consultation required by
2 subparagraph (B)(i).”.

3 **SEC. 1621. AIR QUALITY MONITORING DATA INFLUENCED**
4 **BY EXCEPTIONAL EVENTS.**

5 (a) DEFINITION OF “EXCEPTIONAL EVENT”.—

6 (1) IN GENERAL.—In this section, the term
7 “exceptional event” means a natural event or event
8 caused by human activity that affects air quality and
9 is—

10 (A) unlikely to recur at a particular loca-
11 tion;

12 (B) not reasonably controllable or prevent-
13 able; and

14 (C) determined by the Administrator
15 through the process established in the regula-
16 tions promulgated under subsection (b) to be an
17 exceptional event.

18 (2) EXCLUSIONS.—The term “exceptional
19 event” does not include—

20 (A) stagnation of air masses or meteoro-
21 logical inversions;

22 (B) a meteorological event involving high
23 temperatures or lack of precipitation; or

24 (C) air pollution related to source non-
25 compliance.

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1 (b) REGULATIONS.—

2 (1) PROPOSED REGULATIONS.—Not later than
3 March 1, 2005, after consultation with Federal land
4 managers and State air pollution control agencies,
5 the Administrator of the Environmental Protection
6 Agency shall publish in the Federal Register pro-
7 posed regulations governing the review and handling
8 of air quality monitoring data influenced by excep-
9 tional events.

10 (2) FINAL REGULATIONS.—Not later than 1
11 year after the date on which the Administrator pub-
12 lishes proposed regulations under paragraph (1),
13 and after providing an opportunity for interested
14 persons to make oral presentations of views, data,
15 and arguments regarding the proposed regulation,
16 the Administrator shall promulgate final regulations
17 governing the review and handling of air quality
18 monitoring data influenced by an exceptional event
19 in accordance with the definition in subsection (a)
20 and the principles and requirements in subsection
21 (c).

22 (c) PRINCIPLES AND REQUIREMENTS.—

23 (1) PRINCIPLES.—In developing regulations
24 under this section, the Administrator shall use prin-
25 ciples that include—

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1 (A) the principle that protection of public
2 health is the highest priority;

3 (B) the principle that timely information
4 should be provided to the public in any case in
5 which the air quality is unhealthy;

6 (C) the principle that all ambient air qual-
7 ity data should be timely included in an appro-
8 priate Federal air quality database that is ac-
9 cessible to the public;

10 (D) the principle that each State must
11 take reasonable measures to safeguard public
12 health regardless of the source of the air pollu-
13 tion; and

14 (E) the principle that air quality data
15 should be carefully screened to ensure that
16 events not likely to recur are represented accu-
17 rately in all monitoring data and analyses.

18 (2) REQUIREMENTS.—Regulations promulgated
19 under this section shall, at a minimum, provide
20 that—

21 (A) the occurrence of an exceptional event
22 must be demonstrated by reliable, accurate data
23 that is promptly produced and provided by Fed-
24 eral, State, or local government agencies;

1 (B) a clear causal relationship must exist
2 between the measured exceedances of a national
3 ambient air quality standard and the excep-
4 tional event to demonstrate that the exceptional
5 event caused a specific air pollution concentra-
6 tion at a particular air quality monitoring loca-
7 tion;

8 (C) there is a public process for deter-
9 mining if an event is exceptional; and

10 (D) there are criteria and procedures for
11 the Governor of a State to petition the Admin-
12 istrator to exclude air quality monitoring data
13 that is directly due to exceptional events from
14 use in determinations by the Environmental
15 Protection Agency with respect to exceedances
16 or violations of the national ambient air quality
17 standards.

18 (d) INTERIM PROVISION.—Until the effective date of
19 a regulation promulgated under subsection (b)(2), the fol-
20 lowing guidance issued by the Administrator shall con-
21 tinue to apply:

22 (1) Guidance on the identification and use of
23 air quality data affected by exceptional events (July
24 1986).

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- 1 (2) Areas affected by PM-10 natural events,
- 2 May 30, 1996.
- 3 (3) Appendices I, K, and N to part 50 of title
- 4 40, Code of Federal Regulations.

1 **Subtitle G—Operations**

2 **SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND**
3 **OPERATIONS.**

4 (a) SURFACE TRANSPORTATION PROGRAM ELIGI-
5 BILITY.—Section 133(b) of title 23, United States Code
6 (as amended by section 1601(a)(2)), is amended by adding
7 at the end the following:

8 “(16) Regional transportation operations col-
9 laboration and coordination activities that are asso-
10 ciated with regional improvements, such as traffic
11 incident management, technology deployment, emer-
12 gency management and response, traveler informa-
13 tion, and regional congestion relief.”.

14 (b) CONGESTION MITIGATION AND AIR QUALITY IM-
15 PROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5)
16 of title 23, United States Code, is amended by inserting
17 “improve transportation systems management and oper-
18 ations,” after “intersections,”.

19 (c) TRANSPORTATION SYSTEMS MANAGEMENT AND
20 OPERATIONS.—

21 (1) IN GENERAL.—Section 155 of title 23,
22 United States Code, is amended to read as follows:

1 **“§ 155. Transportation systems management and op-**
2 **erations**

3 “(a) IN GENERAL.—The Secretary shall carry out a
4 transportation systems management and operations pro-
5 gram to—

6 “(1) ensure efficient and effective transpor-
7 tation systems management and operations on Fed-
8 eral-aid highways through collaboration, coordina-
9 tion, and real-time information sharing at a regional
10 and Statewide level among—

11 “(A) managers and operators of major
12 modes of transportation;

13 “(B) public safety officials; and

14 “(C) the general public; and

15 “(2) manage and operate Federal-aid highways
16 in a coordinated manner to preserve the capacity
17 and maximize the performance of highway and tran-
18 sit facilities for travelers and carriers.

19 “(b) AUTHORIZED ACTIVITIES.—

20 “(1) IN GENERAL.—In carrying out the pro-
21 gram under subsection (a), the Secretary may carry
22 out activities to—

23 “(A) encourage managers and operators of
24 major modes of transportation, public safety of-
25 ficials, and transportation planners in urban-
26 ized areas that are responsible for conducting

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1 the day-to-day management, operations, public
2 safety, and planning of transportation facilities
3 and services to collaborate on and coordinate,
4 on a regional level and in a continuous and sus-
5 tained manner, improved transportation sys-
6 tems management and operations; and

7 “(B) encourage States to—

8 “(i) establish a system of basic real-
9 time monitoring for the surface transpor-
10 tation system; and

11 “(ii) provide the means to share the
12 data gathered under clause (i) among—

13 “(I) highway, transit, and public
14 safety agencies;

15 “(II) jurisdictions (including
16 States, cities, counties, and metropoli-
17 tan planning organizations);

18 “(III) private-sector entities; and

19 “(IV) the general public.

20 “(2) ACTIVITIES.—Activities to be carried out
21 under paragraph (1) include—

22 “(A) developing a regional concept of oper-
23 ations that defines a regional strategy shared
24 by all transportation and public safety partici-
25 pants with respect to the manner in which the

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1 transportation systems of the region should be
2 managed, operated, and measured;

3 “(B) the sharing of information among op-
4 erators, service providers, public safety officials,
5 and the general public; and

6 “(C) guiding, in a regionally-coordinated
7 manner and in a manner consistent with and
8 integrated into the metropolitan and statewide
9 transportation planning processes and regional
10 intelligent transportation system architecture,
11 the implementation of regional transportation
12 system management and operations initiatives,
13 including—

14 “(i) emergency evacuation and re-
15 sponse;

16 “(ii) traffic incident management;

17 “(iii) technology deployment; and

18 “(iv) traveler information systems de-
19 livery.

20 “(c) COOPERATION.—In carrying out the program
21 under subsection (a), the Secretary may assist and cooper-
22 ate with other Federal agencies, State and local govern-
23 ments, metropolitan planning organizations, private indus-
24 try, and other interested parties to improve regional col-
25 laboration and real-time information sharing between

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1 managers and operators of major modes of transportation,
2 public safety officials, emergency managers, and the gen-
3 eral public to increase the security, safety, and reliability
4 of Federal-aid highways.

5 “(d) GUIDANCE; REGULATIONS.—

6 “(1) IN GENERAL.—In carrying out the pro-
7 gram under subsection (a), the Secretary may issue
8 guidance or promulgate regulations for the procure-
9 ment of transportation system management and op-
10 erations facilities, equipment, and services,
11 including—

12 “(A) equipment procured in preparation
13 for natural disasters, disasters caused by
14 human activity, and emergencies;

15 “(B) system hardware;

16 “(C) software; and

17 “(D) software integration services.

18 “(2) CONSIDERATIONS.—In developing the
19 guidance or regulations under paragraph (1), the
20 Secretary may consider innovative procurement
21 methods that support the timely and streamlined
22 execution of transportation system management and
23 operations programs and projects.

24 “(3) FINANCIAL ASSISTANCE.—The Secretary
25 may authorize the use of funds made available under

1 section 104(b)(3) to provide assistance for regional
2 operations collaboration and coordination activities
3 that are associated with regional improvements, such
4 as—

5 “(A) traffic incident management;

6 “(B) technology deployment;

7 “(C) emergency management and re-
8 sponse;

9 “(D) traveler information; and

10 “(E) congestion relief.”

11 (2) CONFORMING AMENDMENT.—The analysis
12 for subchapter I of chapter 1 of title 23, United
13 States Code, is amended by striking the item relat-
14 ing to section 155 and inserting the following:

“155. Transportation systems management and operations.”

15 **SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMA-**
16 **TION PROGRAM.**

17 (a) IN GENERAL.—Subchapter I of chapter 1 of title
18 23, United States Code (as amended by section 1602(a)),
19 is amended by adding at the end the following:

20 **“§ 168. Real-time system management information**
21 **program**

22 “(a) IN GENERAL.—The Secretary shall carry out a
23 real-time system management information program to—

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1 “(1) provide a nationwide system of basic real-
2 time information for managing and operating the
3 surface transportation system;

4 “(2)(A) identify long-range real-time highway
5 and transit monitoring needs; and

6 “(B) develop plans and strategies for meeting
7 those needs;

8 “(3) provide the capability and means to share
9 the basic real-time information with State and local
10 governments and the traveling public; and

11 “(4) provide the nationwide capability to mon-
12 itor, in real-time, the traffic and travel conditions of
13 major highways in the United States, and to share
14 that information with State and local governments
15 and the traveling public, to—

16 “(A) improve the security of the surface
17 transportation system;

18 “(B) address congestion problems;

19 “(C) support improved response to weather
20 events; and

21 “(D) facilitate the distribution of national
22 and regional traveler information.

23 “(b) DATA EXCHANGE FORMATS.—Not later than 1
24 year after the date of enactment of this section, the Sec-
25 retary shall establish data exchange formats to ensure that

1 the data provided by highway and transit monitoring sys-
2 tems (including statewide incident reporting systems) can
3 readily be exchanged between jurisdictions to facilitate the
4 nationwide availability of information on traffic and travel
5 conditions.

6 “(c) STATEWIDE INCIDENT REPORTING SYSTEM.—
7 Not later than 2 years after the date of enactment of this
8 section, each State shall establish a statewide incident re-
9 porting system to facilitate the real-time electronic report-
10 ing of highway and transit incidents to a central location
11 for use in—

12 “(1) monitoring an incident;

13 “(2) providing accurate traveler information on
14 the incident; and

15 “(3) responding to the incident as appropriate.

16 “(d) REGIONAL ITS ARCHITECTURE.—

17 “(1) IN GENERAL.—In developing or updating
18 regional intelligent transportation system architec-
19 tures under section 940.9 of title 23, Code of Fed-
20 eral Regulations (or any successor regulation),
21 States and local governments shall address—

22 “(A) the real-time highway and transit in-
23 formation needs of the State or local govern-
24 ment, including coverage, monitoring systems,

1 data fusion and archiving, and methods of ex-
2 changing or sharing information; and

3 “(B) the systems needed to meet those
4 needs.

5 “(2) DATA EXCHANGE FORMATS.—In devel-
6 oping or updating regional intelligent transportation
7 system architectures, States and local governments
8 are encouraged to incorporate the data exchange for-
9 mats developed by the Secretary under subsection
10 (b) to ensure that the data provided by highway and
11 transit monitoring systems can readily be—

12 “(A) exchanged between jurisdictions; and

13 “(B) shared with the traveling public.

14 “(e) ELIGIBLE FUNDING.—Subject to project ap-
15 proval by the Secretary, a State may—

16 “(1) use funds apportioned to the State under
17 section 505(a) to carry out activities relating to the
18 planning of real-time monitoring elements; and

19 “(2) use funds apportioned to the State under
20 paragraphs (1) and (3) of section 104(b) to carry
21 out activities relating to the planning and deploy-
22 ment of real-time monitoring elements.

23 (b) CONFORMING AMENDMENT.—The analysis for
24 subchapter I of chapter 1 of title 23, United States Code

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- 1 (as amended by section 1602(b)(2)), is amended adding
- 2 at the end the following:

“168. Real-time system management information program.”.

1 **Subtitle H—Federal-Aid**
2 **Stewardship**

3 **SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.**

4 Section 103(c)(4)(B) of title 23, United States Code,
5 is amended—

6 (1) in clause (ii), by striking “12” and inserting
7 “25”; and

8 (2) in clause (iii)—

9 (A) in subclause (I), by striking “in the
10 agreement between the Secretary and the State
11 or States”; and

12 (B) by adding at the end the following:

13 “(III) EXISTING AGREEMENTS.—

14 An agreement described in clause (ii)
15 that is entered into before the date of
16 enactment of this subparagraph shall
17 be deemed to include the 25-year time
18 limitation described in that clause, re-
19 gardless of any earlier construction
20 completion date in the agreement.”.

21 **SEC. 1802. STEWARDSHIP AND OVERSIGHT.**

22 (a) IN GENERAL.—Section 106 of title 23, United
23 States Code, is amended—

24 (1) by striking subsection (e) and inserting the
25 following:

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1 “(e) VALUE ENGINEERING ANALYSIS.—

2 “(1) DEFINITION OF VALUE ENGINEERING
3 ANALYSIS.—

4 “(A) IN GENERAL.—In this subsection, the
5 term ‘value engineering analysis’ means a sys-
6 tematic process of review and analysis of a
7 project, during the design phase, by a multidis-
8 ciplined team of persons not involved in the
9 project, that is conducted to provide rec-
10 ommendations such as recommendations de-
11 scribed in subparagraph (B) for—

12 “(i) reducing the total cost of the
13 project; and

14 “(ii) improving the quality of the
15 project.

16 “(B) INCLUSIONS.—The recommendations
17 referred to in subparagraph (A) include, with
18 respect to a project—

19 “(i) combining or eliminating other-
20 wise inefficient use of expensive parts of
21 the original proposal design for the project;
22 and

23 “(ii) completely redesigning the
24 project using different technologies, mate-

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1 rials, or methods so as to accomplish the
2 original purpose of the project.

3 “(2) ANALYSIS.—In the case of each project on
4 the Federal-Aid System with an estimated total cost
5 of \$25,000,000 or more, and for any other project
6 the Secretary determines to be appropriate, the
7 State shall provide a value engineering analysis or
8 other cost-reduction analysis.

9 “(3) MAJOR PROJECTS.—The Secretary may
10 require more than 1 analysis described in paragraph
11 (2) for a major project described in subsection (h).”;
12 and

13 (2) by striking subsections (g) and (h) and in-
14 serting the following:

15 “(g) OVERSIGHT PROGRAM.—

16 “(1) PROGRAM.—

17 “(A) IN GENERAL.—The Secretary shall
18 establish an oversight program to monitor the
19 effective and efficient use of funds made avail-
20 able under this title.

21 “(B) MINIMUM REQUIREMENTS.—At a
22 minimum, the program shall monitor and re-
23 spond to all areas relating to financial integrity
24 and project delivery.

25 “(2) FINANCIAL INTEGRITY.—

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1 “(A) FINANCIAL MANAGEMENT SYS-
2 TEMS.—

3 “(i) IN GENERAL.—The Secretary
4 shall perform annual reviews of the finan-
5 cial management systems of State trans-
6 portation departments that affect projects
7 approved under subsection (a).

8 “(ii) REVIEW AREAS.—In carrying out
9 clause (i), the Secretary shall use risk as-
10 sessment procedures to identify areas to be
11 reviewed.

12 “(B) PROJECT COSTS.—The Secretary
13 shall—

14 “(i) develop minimum standards for
15 estimating project costs; and

16 “(ii) periodically evaluate practices of
17 the States for—

18 “(I) estimating project costs;

19 “(II) awarding contracts; and

20 “(III) reducing project costs.

21 “(C) RESPONSIBILITY OF THE STATES.—

22 “(i) IN GENERAL.—Each State shall
23 be responsible for ensuring that subrecipi-
24 ents of Federal funds within the State
25 under this section have—

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1 “(I) sufficient accounting con-
2 trols to properly manage the Federal
3 funds; and

4 “(II) adequate project delivery
5 systems for projects approved under
6 this section.

7 “(ii) REVIEW BY SECRETARY.—The
8 Secretary shall periodically review moni-
9 toring by the States of those subrecipients.

10 “(3) PROJECT DELIVERY.—The Secretary
11 shall—

12 “(A) perform annual reviews of the project
13 delivery system of each State, including analysis
14 of 1 or more activities that are involved in the
15 life cycle of a project; and

16 “(B) employ risk assessment procedures to
17 identify areas to be reviewed.

18 “(4) SPECIFIC OVERSIGHT RESPONSIBIL-
19 ITIES.—Nothing in this section discharges or other-
20 wise affects any oversight responsibility of the
21 Secretary—

22 “(A) specifically provided for under this
23 title or other Federal law; or

1 “(B) for the design and construction of all
2 Appalachian development highways under sec-
3 tion 14501 of title 40, United States Code.

4 “(h) MAJOR PROJECTS.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of this section, a recipient of Federal fi-
7 nancial assistance for a project under this title with
8 an estimated total cost of \$1,000,000,000 or more,
9 and recipients for such other projects as may be
10 identified by the Secretary, shall submit to the Sec-
11 retary for each project—

12 “(A) a project management plan; and

13 “(B) an annual financial plan.

14 “(2) PROJECT MANAGEMENT PLAN.—A project
15 management plan shall document—

16 “(A) the procedures and processes that are
17 in effect to provide timely information to the
18 project decisionmakers to effectively manage the
19 scope, costs, schedules, and quality of, and the
20 Federal requirements applicable to, the project;
21 and

22 “(B) the role of the agency leadership and
23 management team in the delivery of the project.

24 “(3) FINANCIAL PLAN.—A financial plan
25 shall—

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1 “(A) be based on detailed estimates of the
2 cost to complete the project; and

3 “(B) provide for the annual submission of
4 updates to the Secretary that are based on rea-
5 sonable assumptions, as determined by the Sec-
6 retary, of future increases in the cost to com-
7 plete the project.

8 “(i) OTHER PROJECTS.—A recipient of Federal fi-
9 nancial assistance for a project under this title that re-
10 ceives \$100,000,000 or more in Federal assistance for the
11 project, and that is not covered by subsection (h), shall
12 prepare, and make available to the Secretary at the re-
13 quest of the Secretary, an annual financial plan for the
14 project.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 114(a) of title 23, United States
17 Code, is amended—

18 (A) in the first sentence by striking “high-
19 ways or portions of highways located on a Fed-
20 eral-aid system” and inserting “Federal-aid
21 highway or a portion of a Federal-aid high-
22 way”; and

23 (B) by striking the second sentence and in-
24 serting “The Secretary shall have the right to
25 conduct such inspections and take such correc-

1 tive action as the Secretary determines to be
2 appropriate.”.

3 (2) Section 117 of title 23, United States Code,
4 is amended—

5 (A) by striking subsection (d); and

6 (B) by redesignating subsections (e)
7 through (h) as subsections (d) through (g), re-
8 spectively.

9 (c) CONTRACTOR SUSPENSION AND DEBARMENT
10 POLICY; SHARING FRAUD MONETARY RECOVERIES.—

11 (1) IN GENERAL.—Section 307 of title 49,
12 United States Code, is amended to read as follows:

13 **“§ 307. Contractor suspension and debarment policy;
14 sharing fraud monetary recoveries**

15 “(a) MANDATORY ENFORCEMENT POLICY.—

16 “(1) IN GENERAL.—Notwithstanding any other
17 provision of law, the Secretary—

18 “(A) shall debar any contractor or subcon-
19 tractor convicted of a criminal or civil offense
20 involving fraud relating to a project receiving
21 Federal highway or transit funds for such pe-
22 riod as the Secretary determines to be appro-
23 priate; and

24 “(B) subject to approval by the Attorney
25 General—

1 “(i) except as provided in paragraph
2 (2), shall suspend any contractor or sub-
3 contractor upon indictment for criminal or
4 civil offenses involving fraud; and

5 “(ii) may exclude nonaffiliated sub-
6 sidiaries of a debarred business entity.

7 “(2) NATIONAL SECURITY EXCEPTION.—If the
8 Secretary finds that mandatory debarment or sus-
9 pension of a contractor or subcontractor under para-
10 graph (1) would be contrary to the national security
11 of the United States, the Secretary—

12 “(A) may waive the debarment or suspen-
13 sion; and

14 “(B) in the instance of each waiver, shall
15 provide notification to Congress of the waiver
16 with appropriate details.

17 “(b) SHARING OF MONETARY RECOVERIES.—

18 “(1) IN GENERAL.—Notwithstanding any other
19 provision of law—

20 “(A) monetary judgments accruing to the
21 Federal Government from judgments in Federal
22 criminal prosecutions and civil judgments per-
23 taining to fraud in highway and transit pro-
24 grams shall be shared with the State or local
25 transit agency involved; and

1 “(B) the State or local transit agency shall
2 use the funds for transportation infrastructure
3 and oversight activities relating to programs au-
4 thorized under title 23 and this title.

5 “(2) AMOUNT.—The amount of recovered funds
6 to be shared with an affected State or local transit
7 agency shall be—

8 “(A) determined by the Attorney General,
9 in consultation with the Secretary; and

10 “(B) considered to be Federal funds to be
11 used in compliance with other relevant Federal
12 transportation laws (including regulations).

13 “(3) FRAUDULENT ACTIVITY.—Paragraph (1)
14 shall not apply in any case in which a State or local
15 transit agency is found by the Attorney General, in
16 consultation with the Secretary, to have been in-
17 volved or negligent with respect to the fraudulent ac-
18 tivities.”.

19 (2) CONFORMING AMENDMENT.—The analysis
20 for chapter 3 of title 49, United States Code, is
21 amended by striking the item relating to section 307
22 and inserting the following:

“307. Contractor suspension and debarment policy; sharing fraud monetary re-
coveries.”.

1 **SEC. 1803. DESIGN-BUILD CONTRACTING.**

2 Section 112(b)(3) of title 23, United States Code, is
3 amended by striking subparagraph (C) and inserting the
4 following:

5 “(C) QUALIFIED PROJECTS.—A qualified
6 project referred to in subparagraph (A) is a
7 project under this chapter for which the Sec-
8 retary has approved the use of design-build con-
9 tracting under criteria specified in regulations
10 promulgated by the Secretary.”.

11 **SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.**

12 (a) ADVANCE CONSTRUCTION.—Section 115 of title
13 23, United States Code, is amended—

14 (1) by redesignating subsection (c) as sub-
15 section (d);

16 (2) by redesignating subsections (a)(2),
17 (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1),
18 and (c)(2), respectively, and indenting appropriately;

19 (3) by striking “(a) CONGESTION.—” and all
20 that follows through subsection (a)(1)(B);

21 (4) by striking subsection (b); and

22 (5) by inserting after the section heading the
23 following:

24 “(a) IN GENERAL.—The Secretary may authorize a
25 State to proceed with a project authorized under this
26 title—

1 “(1) without the use of Federal funds; and

2 “(2) in accordance with all procedures and re-
3 quirements applicable to the project other than those
4 procedures and requirements that limit the State to
5 implementation of a project—

6 “(A) with the aid of Federal funds pre-
7 viously apportioned or allocated to the State; or

8 “(B) with obligation authority previously
9 allocated to the State.

10 “(b) OBLIGATION OF FEDERAL SHARE.—The Sec-
11 retary, on the request of a State and execution of a project
12 agreement, may obligate all or a portion of the Federal
13 share of the project authorized under this section from
14 any category of funds for which the project is eligible.”.

15 (b) OBLIGATION AND RELEASE OF FUNDS.—Section
16 118 of title 23, United States Code, is amended by strik-
17 ing subsection (d) and inserting the following:

18 “(d) OBLIGATION AND RELEASE OF FUNDS.—

19 “(1) IN GENERAL.—Funds apportioned or allo-
20 cated to a State for a particular purpose for any fis-
21 cal year shall be considered to be obligated if a sum
22 equal to the total of the funds apportioned or allo-
23 cated to the State for that purpose for that fiscal
24 year and previous fiscal years is obligated.

1 “(2) RELEASED FUNDS.—Any funds released
2 by the final payment for a project, or by modifying
3 the project agreement for a project, shall be—

4 “(A) credited to the same class of funds
5 previously apportioned or allocated to the State;
6 and

7 “(B) immediately available for obligation.

8 “(3) NET OBLIGATIONS.—Notwithstanding any
9 other provision of law (including a regulation), obli-
10 gations recorded against funds made available under
11 this section shall be recorded and reported as net ob-
12 ligations.”.

13 **SEC. 1805. SET-ASIDES FOR INTERSTATION DISCRE-**
14 **TIONARY PROJECTS.**

15 Section 118(c)(1) of title 23, United States Code, is
16 amended—

17 (1) by striking “\$50,000,000” and all that
18 follows through “2003” and inserting
19 “\$100,000,000 for each of fiscal years 2004
20 through 2009”; and

21 (2) by striking “Transportation Equity Act
22 for the 21st Century” and inserting “**【Safe, Ac-**
23 countable, Flexible, and Efficient Transpor-
24 tation Equity Act of 2003**】**”.

1 **SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.**

2 (a) FEDERAL SHARE PAYABLE.—

3 (1) IN GENERAL.—Section 120(k) of title 23,
4 United States Code, is amended—

5 (A) by striking “Federal-aid highway”;

6 and

7 (B) by striking “section 104” and insert-
8 ing “this title or chapter 53 of title 49”.

9 (2) TECHNICAL REFERENCES.—Section 120(l)
10 of title 23, United States Code, is amended by strik-
11 ing “section 104” and inserting “this title or chap-
12 ter 53 of title 49”.

13 (b) PAYMENTS TO FEDERAL AGENCIES FOR FED-
14 ERAL-AID PROJECTS.—Section 132 of title 23, United
15 States Code, is amended—

16 (1) by striking the first 2 sentences and insert-
17 ing the following:

18 “(a) IN GENERAL.—In a case in which a proposed
19 Federal-aid project is to be undertaken by a Federal agen-
20 cy in accordance with an agreement between a State and
21 the Federal agency, the State may—

22 “(1) direct the Secretary to transfer the funds
23 for the Federal share of the project directly to the
24 Federal agency; or

25 “(2) make such deposit with, or payment to,
26 the Federal agency as is required to meet the obliga-

1 tion of the State under the agreement for the work
2 undertaken or to be undertaken by the Federal
3 agency.

4 “(b) REIMBURSEMENT.—On execution of a project
5 agreement with a State described in subsection (a), the
6 Secretary may reimburse the State, using any available
7 funds, for the estimated Federal share under this title of
8 the obligation of the State deposited or paid under sub-
9 section (a)(2).”; and

10 (2) in the last sentence, by striking “Any
11 sums” and inserting the following:

12 “(c) RECOVERY AND CREDITING OF FUNDS.—Any
13 sums”.

14 (c) ALLOCATIONS.—Section 202 of title 23, United
15 States Code, is amended—

16 (1) in subsection (a), by striking “(a) On Octo-
17 ber 1” and all that follows through “Such alloca-
18 tion” and inserting the following:

19 “(a) ALLOCATION BASED ON NEED.—

20 “(1) IN GENERAL.—On October 1 of each fiscal
21 year, the Secretary shall allocate sums authorized to
22 be appropriated for the fiscal year for forest develop-
23 ment roads and trails according to the relative needs
24 of the various national forests and grassland.

1 “(2) PLANNING.—The allocation under para-
2 graph (1)”;

3 (2) by striking subsection (b) and inserting the
4 following:

5 “(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

6 “(1) PUBLIC LANDS HIGHWAYS.—

7 “(A) IN GENERAL.—On October 1 of each
8 fiscal year, the Secretary shall allocate $33\frac{1}{3}$
9 percent of the sums authorized to be appro-
10 priated for that fiscal year for public lands
11 highways among those States having unappro-
12 priated or unreserved public lands, or non-
13 taxable Indian lands or other Federal reserva-
14 tions, on the basis of need in the States, respec-
15 tively, as determined by the Secretary, on appli-
16 cation of the State transportation departments
17 of the respective States.

18 “(B) PREFERENCE.—In making the allo-
19 cation under subparagraph (A), the Secretary
20 shall give preference to those projects that are
21 significantly impacted by Federal land and re-
22 source management activities that are proposed
23 by a State that contains at least 3 percent of
24 the total public land in the United States.

25 “(2) NATIONAL FOREST SYSTEM.—

8-17

1 “(A) IN GENERAL.—On October 1 of each
2 fiscal year, the Secretary shall allocate $66\frac{2}{3}$
3 percent of the remainder of the authorization
4 for public lands highways for forest highways in
5 accordance with section 134 of the Federal-Aid
6 Highway Act of 1987 (23 U.S.C. 202 note; 101
7 Stat. 173).

8 “(B) PUBLIC ACCESS TO AND WITHIN NA-
9 TIONAL FOREST SYSTEM.—In making the allo-
10 cation under subparagraph (A), the Secretary
11 shall give equal consideration to projects that
12 provide access to and within the National For-
13 est System, as identified by the Secretary of
14 Agriculture through—

15 “(i) renewable resource and land use
16 planning; and

17 “(ii) assessments of the impact of that
18 planning on transportation facilities.”;

19 (3) in subsection (c), by striking “(c) On” and
20 inserting the following:

21 “(c) ALLOCATION FOR PARK ROADS AND PARK-
22 WAYS.—On”;

23 (4) in subsection (d)—

24 (A) in paragraph (1)—

8-18

1 (i) in the paragraph heading, by strik-
2 ing “1999” and inserting “2005”; and

3 (ii) by striking “1999” and inserting
4 “2005”;

5 (B) in paragraph (2)—

6 (i) in the paragraph heading, by strik-
7 ing “2000” and inserting “2005”;

8 (ii) in subparagraphs (A), (B), and
9 (D), by striking “2000” each place it ap-
10 pears and inserting “2005”;

11 (iii) in subparagraph (B), by striking
12 “1999” each place it appears and inserting
13 “2004”; and

14 (iv) by adding at the end the fol-
15 lowing:

16 “(E) TRANSFERRED FUNDS.—

17 “(i) IN GENERAL.—Not later than 30
18 days after the date on which funds are
19 made available to the Secretary of the In-
20 terior under this paragraph, the funds
21 shall be distributed to, and available for
22 immediate use by, the eligible Indian
23 tribes, in accordance with the formula ap-
24 plicable for each fiscal year.

1 “(ii) FORMULA.—If the Secretary of
2 the Interior has not promulgated final reg-
3 ulations for the distribution of funds under
4 clause (i) for a fiscal year by the date on
5 which the funds for the fiscal year are re-
6 quired to be distributed under that clause,
7 the Secretary of the Interior shall dis-
8 tribute the funds under clause (i) in ac-
9 cordance with the applicable funding for-
10 mula for the preceding year.”;

11 (C) in paragraph (3)(A)—

12 (i) by striking “under this title” and
13 inserting “under this chapter and section
14 125(e)”; and

15 (ii) by inserting “and the approved
16 Indian reservation road transportation im-
17 provement program” before the period at
18 the end; and

19 (D) in paragraph (4)—

20 (i) in subparagraph (B)—

21 (I) by striking “(B) RESERVA-
22 TION.—Of the amounts” and all that
23 follows through “to replace,” and in-
24 serting the following:

25 “(B) FUNDING.—

8-20

1 “(i) RESERVATION OF FUNDS.—Not-
2 withstanding any other provision of law,
3 there is authorized to be appropriated from
4 the Highway Trust Fund \$15,000,000 for
5 each of fiscal years 2004 through 2009 to
6 carry out planning, design, engineering,
7 preconstruction, construction, and inspec-
8 tion of projects to replace,”; and

9 (II) by adding at the end the fol-
10 lowing:

11 “(ii) AVAILABILITY.—Funds made
12 available to carry out this subparagraph
13 shall be available for obligation in the same
14 manner as if the funds were apportioned
15 under chapter 1.”; and

16 (ii) by striking subparagraph (D) and
17 inserting the following:

18 “(D) APPROVAL REQUIREMENT.—

19 “(i) IN GENERAL.—Subject to clause
20 (ii), on request by an Indian tribe or the
21 Secretary of the Interior, the Secretary
22 may make funds available under this sub-
23 section for preliminary engineering for In-
24 dian reservation road bridge projects.

8-21

1 “(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may
2 make funds available under clause (i) for
3 construction and construction engineering
4 only after approval by the Secretary of applicable plans, specifications, and estimates.”; and
5
6
7

8 (5) by adding at the end the following:

9 “(f) ADMINISTRATION OF INDIAN RESERVATION
10 ROADS.—Notwithstanding any other provision of law, for
11 any fiscal year not more than 10 percent of the contract
12 authority amounts made available from the Highway
13 Trust Fund to the Bureau of Indian Affairs under this
14 title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).”.

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16
17
18
19 (d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

20 (1) in subsection (a)(1), by inserting “refuge roads,” after “parkways,”;

21 (2) by striking subsection (b) and inserting the following:

22 “(b) USE OF FUNDS.—

1 “(1) IN GENERAL.—Funds available for recre-
2 ation roads, park roads and parkways, forest high-
3 ways, and Indian reservation roads shall be used by
4 the Secretary and the Secretary of the appropriate
5 Federal land management agency to pay the cost of
6 transportation planning, research, engineering, and
7 construction of the highways, roads, parkways, for-
8 est highways, and transit facilities located on public
9 land, national parks, and Indian reservations.

10 “(2) CONTRACT.—In connection with an activ-
11 ity described in paragraph (1), the Secretary and the
12 Secretary of the appropriate Federal land manage-
13 ment agency may enter into a construction contract
14 or other appropriate agreement with—

15 “(A) a State (including a political subdivi-
16 sion of a State); or

17 “(B) an Indian tribe.

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

20 “(A) Indian labor may be used, in accord-
21 ance with such rules and regulations as may be
22 promulgated by the Secretary of the Interior, to
23 carry out any construction or other activity de-
24 scribed in paragraph (1); and

1 “(B) funds made available to carry out
2 this section may be used to pay bridge
3 preconstruction costs (including planning, de-
4 sign, and engineering).

5 “(4) FEDERAL EMPLOYMENT.—No maximum
6 on Federal employment shall be applicable to con-
7 struction or improvement of Indian reservation
8 roads.

9 “(5) AVAILABILITY OF FUNDS.—Funds avail-
10 able under this section for each class of Federal
11 lands highway shall be available for any kind of
12 transportation project eligible for assistance under
13 this title that is within or adjacent to, or that pro-
14 vides access to, the areas served by the particular
15 class of Federal lands highway.

16 “(6) RESERVATION OF FUNDS.—The Secretary
17 of the Interior may reserve funds from administra-
18 tive funds of the Bureau of Indian Affairs that are
19 associated with the Indian reservation road program
20 to finance the Indian technical centers authorized
21 under section 504(b).”; and

22 (3) in subsection (k)(1)—

23 (A) in subparagraph (B)—

24 (i) by striking “(2), (5),” and insert-
25 ing “(2), (3), (5),”; and

8-24

1 (ii) by striking “and” after the semi-
2 colon;

3 (B) in subparagraph (C), by striking the
4 period at the end and inserting a semicolon;
5 and

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

7 “(D) maintenance of public roads in na-
8 tional fish hatcheries under the jurisdiction of
9 the United States Fish and Wildlife Service;

10 “(E) the non-Federal share of the cost of
11 any project funded under this title or chapter
12 53 of title 49 that provides access to or within
13 a wildlife refuge; and

14 “(F) maintenance and improvement of rec-
15 reational trails (except that expenditures on
16 trails under this subparagraph shall not exceed
17 5 percent of available funds for each fiscal
18 year).”.

19 (e) SAFETY.—

20 (1) ALLOCATIONS.—Section 202 of title 23,
21 United States Code (as amended by subsection
22 (c)(5)), is amended by adding at the end the fol-
23 lowing:

24 “(g) SAFETY.—Subject to paragraph (2), on October
25 1 of each fiscal year, the Secretary shall allocate the sums

1 authorized to be appropriated for the fiscal year for safety
2 as follows:

3 “(1) 10 percent to the Bureau of Reclamation.

4 “(2) 15 percent to the Bureau of Indian Af-
5 fairs.

6 “(3) 15 percent to the Bureau of Land Man-
7 agement.

8 “(4) 15 percent to the Forest Service.

9 “(5) 5 percent to the United States Fish and
10 Wildlife Service.

11 “(6) 15 percent to Military Traffic Manage-
12 ment Command.

13 “(7) 15 percent to the National Park Service.

14 “(8) 10 percent to the Corps of Engineers.”.

15 (2) AVAILABILITY OF FUNDS.—Section 203 of
16 title 23, United States Code, is amended by insert-
17 ing “safety projects or activities,” after “refuge
18 roads,” each place it appears.

19 (3) USE OF FUNDING.—Section 204 of title 23,
20 United States Code, is amended by adding at the
21 end the following:

22 “(1) SAFETY ACTIVITIES.—

23 “(1) IN GENERAL.—Notwithstanding any other
24 provision of this title, funds made available for safe-
25 ty under this title shall be used by the Secretary and

1 the head of the appropriate Federal land manage-
2 ment agency only to pay the costs of carrying out—

3 “(A) transportation safety improvement
4 activities;

5 “(B) activities to eliminate high-accident
6 locations;

7 “(C) projects to implement protective
8 measures at, or eliminate, at-grade railway-
9 highway crossings;

10 “(D) collection of safety information;

11 “(E) transportation planning projects or
12 activities;

13 “(F) bridge inspection;

14 “(G) development and operation of safety
15 management systems;

16 “(H) highway safety education programs;

17 and

18 “(I) other eligible safety projects and ac-
19 tivities authorized under chapter 4.

20 “(2) CONTRACTS.—In carrying out paragraph
21 (1), the Secretary and the Secretary of the appro-
22 priate Federal land management agency may enter
23 into contracts or agreements with—

24 “(A) a State;

25 “(B) a political subdivision of a State; or

1 “(C) an Indian tribe.

2 “(3) EXCEPTION.—The cost sharing require-
3 ments under the Federal Water Project Recreation
4 Act (16 U.S.C. 460l–12 et seq.) shall not apply to
5 funds made available to the Bureau of Reclamation
6 under this subsection.”.

7 (f) RECREATION ROADS.—

8 (1) AUTHORIZATIONS.—Section 201 of title 23,
9 United States Code, is amended in the first sentence
10 by inserting “recreation roads,” after “public lands
11 highways,”.

12 (2) ALLOCATIONS.—Section 202 of title 23,
13 United States Code (as amended by subsection
14 (e)(1)), is amended by adding at the end the fol-
15 lowing:

16 “(h) RECREATION ROADS.—

17 “(1) IN GENERAL.—Subject to paragraphs (2)
18 and (3), on October 1 of each fiscal year, the Sec-
19 retary, after completing the transfer under sub-
20 section 204(i), shall allocate the sums authorized to
21 be appropriated for the fiscal year for recreation
22 roads as follows:

23 “(A) 6 percent to the Bureau of Reclama-
24 tion.

25 “(B) 6 percent to the Corps of Engineers.

1 “(C) 10 percent to the Bureau of Land
2 Management.

3 “(D) 10 percent to the Military Traffic
4 Management Command.

5 “(E) 68 percent to the Forest Service.

6 “(2) ALLOCATION WITHIN AGENCIES.—Recre-
7 ation road funds allocated to a Federal agency under
8 paragraph (1) shall be allocated for projects and ac-
9 tivities of the Federal agency according to the rel-
10 ative needs of each area served by recreation roads
11 under the jurisdiction of the Federal agency, as indi-
12 cated in the approved transportation improvement
13 program for each Federal agency.”.

14 (3) AVAILABILITY OF FUNDS.—Section 203 of
15 title 23, United States Code, is amended—

16 (A) in the first sentence, by inserting
17 “recreation roads,” after “Indian reservation
18 roads,”; and

19 (B) in the fourth sentence, by inserting “,
20 recreation roads,” after “Indian roads”.

21 (4) USE OF FUNDING.—Section 204 of title 23,
22 United States Code (as amended by subsection
23 (e)(3)), is amended by adding at the end the fol-
24 lowing:

25 “(m) RECREATION ROADS.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this title, funds made available for
3 recreation roads under this title shall be used by the
4 Secretary and the Secretary of the appropriate Fed-
5 eral land management agency only to pay the cost
6 of—

7 “(A) maintenance or improvements of ex-
8 isting recreation roads;

9 “(B) maintenance and improvements of eli-
10 gible projects described in paragraph (1), (2),
11 (3), (5), or (6) of subsection (h) that are lo-
12 cated in or adjacent to Federal land under the
13 jurisdiction of—

14 “(i) the Department of Agriculture

15 “(ii) the Department of Defense; or

16 “(iii) the Department of the Interior;

17 “(C) transportation planning and adminis-
18 trative activities associated with those mainte-
19 nance and improvements; and

20 “(D) the non-Federal share of the cost of
21 any project funded under this title or chapter
22 53 of title 49 that provides access to or within
23 Federal land described in subparagraph (B).

24 “(2) CONTRACTS.—In carrying out paragraph
25 (1), the Secretary and the Secretary of the appro-

1 appropriate Federal land management agency may enter
2 into contracts or agreements with—

3 “(A) a State;

4 “(B) a political subdivision of a State; or

5 “(C) an Indian tribe.

6 “(3) NEW ROADS.—No funds made available
7 under this section shall be used to pay the cost of
8 the design or construction of new recreation roads.

9 “(4) COMPLIANCE WITH OTHER ENVIRON-
10 MENTAL LAWS.—A maintenance or improvement
11 project that is funded under this subsection, and
12 that is consistent with or has been identified in a
13 land use plan for an area under the jurisdiction of
14 a Federal agency, shall not require any additional
15 environmental reviews or assessments under the Na-
16 tional Environmental Policy Act of 1969 (42 U.S.C.
17 4321 et seq.) if—

18 “(A) the Federal agency that promulgated
19 the land use plan analyzed the specific proposal
20 for the maintenance or improvement project
21 under that Act; and

22 “(B) as of the date on which the funds are
23 to be expended, there are—

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1 “(i) no significant changes to the pro-
2 posal bearing on environmental concerns;
3 and

4 “(ii) no significant new information.

5 “(5) EXCEPTION.—The cost sharing require-
6 ments under the Federal Water Project Recreation
7 Act (16 U.S.C. 460l–12 et seq.) shall not apply to
8 funds made available to the Bureau of Reclamation
9 under this subsection.”.

10 (g) CONFORMING AMENDMENTS.—

11 (1) Sections 120(e) and 125(e) of title 23,
12 United States Code, are amended by striking “public
13 lands highways,” each place it appears and inserting
14 “public lands highways, recreation roads,”.

15 (2) Sections 120(e), 125(e), 201, 202(a), and
16 203 of title 23, United States Code, are amended by
17 striking “forest development roads” each place it ap-
18 pears and inserting “National Forest System
19 roads”.

20 (3) Section 202(e) of title 23, United States
21 Code, is amended by striking “Refuge System,” and
22 inserting “Refuge System and the various national
23 fish hatcheries,”.

24 (4) Section 204 of title 23, United States Code,
25 is amended—

1 (A) in subsection (a)(1), by striking “pub-
2 lic lands highways,” and inserting “public lands
3 highways, recreation roads, forest highways,”;

4 (B) in the first sentence of subsection (b),
5 by striking “public lands highways,” and insert-
6 ing “public lands highways, recreation roads,”;
7 and

8 (C) in subsection (i), by striking “public
9 lands highways” each place it appears and in-
10 sserting “public lands highways, recreation
11 roads, and forest highways”.

12 (5) Section 205 of title 23, United States Code,
13 is amended—

14 (A) by striking the section heading and in-
15 sserting the following:

16 **“§ 205. National Forest System roads and trails”;**

17 and

18 (B) in subsections (a) and (d), by striking
19 “forest development roads” each place it ap-
20 pears and inserting “National Forest System
21 roads”.

22 (6) The analysis for chapter 2 of title 23,
23 United States Code, is amended by striking the item
24 relating to section 205 and inserting the following:

“205. National Forest System roads and trails.”.

1 (7) Section 217(e) of title 23, United States
2 Code, is amended by inserting “refuge roads,” after
3 “Indian reservation roads,”.

4 **SEC. 1807. EMERGENCY RELIEF.**

5 Section 125(c)(1) of title 23, United States Code, is
6 amended by striking “\$100,000,000” and inserting
7 “\$300,000,000”.

8 **SEC. 1808. HIGHWAY BRIDGE PROGRAM.**

9 (a) IN GENERAL.—Section 144 of title 23, United
10 States Code, is amended—

11 (1) by striking the section heading and all that
12 follows through subsection (a) and inserting the fol-
13 lowing:

14 **“§ 144. Highway bridge program**

15 “(a) CONGRESSIONAL STATEMENT.—Congress finds
16 and declares that it is in the vital interest of the United
17 States that a highway bridge program be established to
18 enable States to improve the condition of their bridges
19 through replacement, rehabilitation, and systematic pre-
20 ventative maintenance on highway bridges over waterways,
21 other topographical barriers, other highways, or railroads
22 at any time at which the States and the Secretary deter-
23 mine that a bridge is unsafe because of structural defi-
24 ciencies, physical deterioration, or functional obsoles-
25 cence.”;

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

3 “(d) PARTICIPATION IN PROGRAM.—

4 “(1) IN GENERAL.—On application by a State
5 to the Secretary for assistance in replacing or reha-
6 bilitating a highway bridge that has been determined
7 to be eligible for replacement or rehabilitation under
8 subsection (b) or (c), the Secretary may approve
9 Federal participation in—

10 “(A) replacing the bridge with a com-
11 parable bridge; or

12 “(B) rehabilitating the bridge.

13 “(2) SPECIFIC KINDS OF REHABILITATION.—

14 On application by a State to the Secretary for as-
15 sistance in painting, seismic retrofit, or preventative
16 maintenance of, or installation of scour counter-
17 measures or applying calcium magnesium acetate,
18 sodium acetate/formate, or other environmentally ac-
19 ceptable, minimally corrosive anti-icing and de-icing
20 compositions to, the structure of a highway bridge,
21 the Secretary may approve Federal participation in
22 the painting, seismic retrofit, or preventative mainte-
23 nance of, or installation of scour countermeasures or
24 application of acetate or sodium acetate/formate or

1 such anti-icing or de-icing composition to, the struc-
2 ture.

3 “(3) ELIGIBILITY.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the Secretary shall deter-
6 mine the eligibility of highway bridges for re-
7 placement or rehabilitation for each State based
8 on the number of unsafe highway bridges in the
9 State.

10 “(B) PREVENTATIVE MAINTENANCE.—A
11 State may carry out a project for preventative
12 maintenance on a bridge, seismic retrofit of a
13 bridge, or installation of scour countermeasures
14 to a bridge under this section without regard to
15 whether the bridge is eligible for replacement or
16 rehabilitation under this section.”;

17 (3) in subsection (e)—

18 (A) in the third sentence, by striking
19 “square footage” and inserting “area”;

20 (B) in the fourth sentence—

21 (i) by striking “by the total cost of
22 any highway bridges constructed under
23 subsection (m) in such State, relating to
24 replacement of destroyed bridges and fer-
25 ryboat services, and,”; and

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1 (ii) by striking “1997” and inserting
2 “2003”; and

3 (C) in the seventh sentence, by striking
4 “the Federal-aid primary system” and inserting
5 “Federal-aid highways”;

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

8 “(g) SET ASIDES.—

9 “(1) DISCRETIONARY BRIDGE PROGRAM.—

10 “(A) IN GENERAL.—Of the amounts au-
11 thorized to be appropriated to carry out the
12 bridge program under this section for each of
13 fiscal years 2004, through 2009, all but
14 \$100,000,000 shall be apportioned as provided
15 in subsection (e).

16 “(B) AVAILABILITY.—The \$100,000,000
17 referred to in subparagraph (A) shall be avail-
18 able at the discretion of the Secretary, except
19 that not to exceed \$25,000,000 of that amount
20 shall be available only for projects for the seis-
21 mic retrofit of bridges, including projects in the
22 New Madrid fault region.

23 “(2) OFF-SYSTEM BRIDGES.—

24 “(A) IN GENERAL.—Not less than 15 per-
25 cent of the amount apportioned to each State in

1 each of fiscal years 2004 through 2009 shall be
2 expended for projects to replace, rehabilitate,
3 perform systematic preventative maintenance or
4 seismic retrofit, or apply calcium magnesium
5 acetate, sodium acetate/formate, or other envi-
6 ronmentally acceptable, minimally corrosive
7 anti-icing and de-icing compositions or install
8 scour countermeasures to highway bridges lo-
9 cated on public roads, other than those on a
10 Federal-aid highway.

11 “(B) REDUCTION OF EXPENDITURES.—
12 The Secretary, after consultation with State
13 and local officials, may, with respect to the
14 State, reduce the requirement for expenditure
15 for bridges not on a Federal-aid highway if the
16 Secretary determines that the State has inad-
17 equate needs to justify the expenditure.”;

18 (4) in subsection (i)—

19 (A) in paragraph (3), by striking “and”;

20 (B) in paragraph (4), by striking the pe-
21 riod at the end and inserting “; and”;

22 (C) by striking “Such reports” and all that
23 follows through “to Congress.”; and

24 (D) by adding at the end the following:

1 “(5) biennially submit such reports as are re-
2 quired under this subsection to the appropriate com-
3 mittees of Congress simultaneously with the report
4 required by section 502(g).”;

5 (5) in the first sentence of subsection (n), by
6 striking “all standards” and inserting “all general
7 engineering standards”;

8 (6) in subsection (o)—

9 (A) in paragraph (3)—

10 (i) by striking “title (including this
11 section)” and inserting “section”; and

12 (ii) by inserting “200 percent of”
13 after “shall not exceed”; and

14 (B) in paragraph (4)(B)—

15 (i) in the second sentence, by insert-
16 ing “200 percent of” after “not to exceed”;

17 and

18 (ii) in the last sentence, by striking
19 “title” and inserting “section”; and

20 (7) by adding at the end the following:

21 “(r) RESOURCE PROJECTS.—Notwithstanding any
22 other provision of law, any bridge funded under this title
23 shall not be considered to be a water resources project (as
24 that term is used in the Wild and Scenic Rivers Act (16
25 U.S.C. 1271 et seq.)).

1 “(s) STUDIES AND REPORTS.—Not later than 1 year
2 after the date of enactment of this subsection, and annu-
3 ally thereafter, the Secretary shall publish in the Federal
4 Register a report of construction materials used in new
5 Federal-aid bridge construction and bridge rehabilitation
6 projects.

7 “(t) ALTERNATIVE DESIGN.—

8 “(1) IN GENERAL.—The Secretary shall estab-
9 lish a program to require alternative designs for
10 bridge construction projects with a total cost of at
11 least \$20,000,000.

12 “(2) REQUIREMENTS.—Alternative designs de-
13 scribed in paragraph (1) shall—

14 “(A) include bridge substructure require-
15 ments based on construction material; and

16 “(B) be evaluated—

17 “(i) on engineering and economic
18 bases, taking into consideration acceptable
19 designs for bridges; and

20 “(ii) using an analysis of life-cycle
21 costs and duration of project construc-
22 tion.”.

23 “(b) CONFORMING AMENDMENT.—The analysis for
24 subchapter I of chapter 1 of title 23, United States Code,

1 is amended by striking the item relating to section 144
2 and inserting the following:

“144. Highway bridge program.”.

3 **SEC. 1809. APPALACHIAN DEVELOPMENT HIGHWAY SYS-**
4 **TEM.**

5 (a) IN GENERAL.—Subchapter I of chapter 1 of title
6 23, United States Code (as amended by section 1702(a)),
7 is amended by adding at the end the following:

8 **“§ 169. Appalachian development highway system**

9 “(a) APPORTIONMENT.—

10 “(1) IN GENERAL.—The Secretary shall appor-
11 tion funds made available under section 1101(a)(7)
12 of the [Safe, Accountable, Flexible, and Efficient
13 Transportation Equity Act of 2003] for fiscal years
14 2004 through 2009 among States based on the lat-
15 est available estimate of the cost to construct high-
16 ways and access roads for the Appalachian develop-
17 ment highway system program prepared by the Ap-
18 palachian Regional Commission under section 14501
19 of title 40.

20 “(2) AVAILABILITY.—Funds described in para-
21 graph (1) shall be available to construct highways
22 and access roads under chapter 145 of title 40.

23 “(b) APPLICABILITY OF TITLE.—Funds made avail-
24 able under section 1101(a)(7) of the [Safe, Accountable,
25 Flexible, and Efficient Transportation Equity Act of

1 2003] for the Appalachian development highway system
2 shall be available for obligation in the same manner as
3 if the funds were apportioned under this chapter, except
4 that—

5 “(1) the Federal share of the cost of any
6 project under this section shall be determined in ac-
7 cordance with subtitle IV of title 40; and

8 “(2) the funds shall remain available until ex-
9 pended.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) USE OF TOLL CREDITS.—Section 120(j)(1)
12 of title 23, United States Code is amended by insert-
13 ing “and the Appalachian development highway sys-
14 tem program under subtitle IV of title 40” after
15 “(other than the emergency relief program author-
16 ized by section 125”.

17 (2) ANALYSIS.—The analysis of chapter 1 of
18 title 23, United States Code (as amended by section
19 1702(b)(2)), is amended by adding at the end the
20 following:

“169. Appalachian development highway system.”.

1 **SEC. 1810. ASSUMPTION OF RESPONSIBILITY FOR TRANS-**
2 **PORTATION ENHANCEMENTS, REC-**
3 **REATIONAL TRAILS, AND TRANSPORTATION,**
4 **COMMUNITY, AND SYSTEM PRESERVATION**
5 **PROGRAM PROJECTS.**

6 (a) IN GENERAL.—Subchapter I of chapter 1 of title
7 23, United States Code (as amended by section 1809(a)),
8 is amended by adding at the end the following:

9 **“§ 170. Assumption of responsibility for transpor-**
10 **tation enhancements, recreational trails,**
11 **and transportation, community, and sys-**
12 **tem preservation program projects**

13 “(a) DEFINITION OF STATE WITH RESPECT TO REC-
14 REATIONAL TRAILS PROGRAM.—In this section, with re-
15 spect to the recreational trails program, the term ‘State’
16 means a State agency designated by the Governor of the
17 State in accordance with section 206(c)(1).

18 “(b) ASSUMPTION OF RESPONSIBILITIES OF SEC-
19 RETARY UNDER APPLICABLE FEDERAL LAWS.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of law, upon mutual agreement, the Sec-
22 retary may assign, and a State may assume, any of
23 the responsibilities of the Secretary under any Fed-
24 eral law (except responsibilities relating to federally
25 recognized Indian tribes) applicable to a project
26 that—

1 “(A) is funded under section 104(h); or

2 “(B) is—

3 “(i) a transportation enhancement ac-
4 tivity; or

5 “(ii) a transportation, community,
6 and system preservation activity.

7 “(2) LIMITATIONS.—

8 “(A) IN GENERAL.—A State shall assume
9 responsibilities under paragraph (1) subject to
10 the same procedural and substantive require-
11 ments as would be applicable if the responsibil-
12 ities were carried out by the Secretary.

13 “(B) ADMINISTRATION.—A State that as-
14 sumes any responsibility for a project under a
15 Federal law under paragraph (1) shall—

16 “(i) be considered to assent to Federal
17 jurisdiction over the project; and

18 “(ii) be solely responsible and solely
19 liable for complying with and carrying out
20 that law with respect to the project in lieu
21 of the Secretary.

22 “(c) AGREEMENTS.—

23 “(1) IN GENERAL.—In order for a State to as-
24 sume a responsibility for a project under subsection

1 (b)(1), the Secretary and the State shall enter into
2 a memorandum of understanding that describes—

3 “(A) each responsibility to be assigned to
4 the State; and

5 “(B) the terms and conditions under which
6 the assignments are to be made.

7 “(2) TERM.—A memorandum of understanding
8 described in paragraph (1) shall have a term that
9 does not exceed 3 years.

10 “(3) REVIEW BY SECRETARY.—The Secretary
11 shall review and determine compliance of a State
12 with a memorandum of understanding entered into
13 under paragraph (1), and the applicable Federal
14 laws assigned to the State under the memorandum
15 of understanding—

16 “(A) annually, for the 3-year period after
17 the date on which the memorandum of under-
18 standing is entered into; and

19 “(B) after that 3-year period, on a periodic
20 basis to be determined by mutual agreement be-
21 tween the Secretary and the State, but not less
22 often than triennially.

23 “(d) TERMINATION.—The Secretary may terminate
24 any assignment of responsibility under this section upon
25 a determination that a State is not adequately meeting

1 the terms and conditions of a memorandum of under-
2 standing.

3 “(e) PRESERVATION OF PUBLIC INTEREST CONSID-
4 ERATION.—Nothing in this section limits or otherwise af-
5 fects any requirement under any applicable law providing
6 for the consideration and preservation of the public inter-
7 est, including public participation and community values
8 in transportation decisionmaking.

9 “(f) STATE SUBJECT TO FEDERAL LAW.—For the
10 purpose of assuming the responsibility of the Secretary
11 under this section, the State agency signing an agreement
12 under subsection (e) shall be considered to be a Federal
13 agency to the extent that the State is carrying out the
14 responsibilities of the Secretary under—

15 “(1) the National Environmental Policy Act of
16 1969 (42 U.S.C. 4321 et seq.);

17 “(2) this title; or

18 “(3) any other Federal law.”.

19 (b) CONFORMING AMENDMENT.—The analysis for
20 subchapter I of chapter 1 of title 23, United States Code
21 (as amended by section 1809(b)), is amended by adding
22 at the end the following:

“170. Assumption of responsibility for transportation enhancements, rec-
reational trails, and transportation and community and system
preservation program projects.”.

1 **SEC. 1811. MULTISTATE CORRIDOR PROGRAM.**

2 (a) IN GENERAL.—Subchapter I of chapter 1 of title
3 23, United States Code (as amended by 1810(a)), is
4 amended by adding at the end the following:

5 **“§ 171. Multistate corridor program**

6 “(a) ESTABLISHMENT AND PURPOSE.—The Sec-
7 retary shall carry out a program to—

8 “(1) support and encourage multistate trans-
9 portation planning and development; and

10 “(2) facilitate transportation decisionmaking
11 and coordinate project delivery involving multistate
12 corridors.

13 “(b) ELIGIBLE RECIPIENTS.—A State transportation
14 department may receive and administer funds provided
15 under this section.

16 “(c) ELIGIBLE ACTIVITIES.—The Secretary shall
17 make allocations under this program for multistate high-
18 way and multimodal planning studies and construction.

19 “(d) OTHER PROVISIONS REGARDING ELIGI-
20 BILITY.—

21 “(1) STUDIES.—All studies funded under this
22 program shall be consistent with the continuing, co-
23 operative, and comprehensive planning processes re-
24 quired by sections 134 and 135.

1 “(2) CONSTRUCTION.—All construction funded
2 under this program shall be consistent with section
3 133(b)(1).

4 “(e) SELECTION CRITERIA.—The Secretary shall se-
5 lect studies and projects to be carried out under the pro-
6 gram based on—

7 “(1) the existence and significance of signed
8 and binding multijurisdictional agreements;

9 “(2) endorsement of the study or project by ap-
10 pplicable elected State and local representatives;

11 “(3) prospects for early completion of the study
12 or project; and

13 “(4) whether the projects to be studied or con-
14 structed are located on corridors identified by sec-
15 tion 1105(c) of the Intermodal Surface Transpor-
16 tation Efficiency Act of 1991 (Public Law 102-240;
17 105 Stat. 2032).

18 “(f) PROGRAM PRIORITIES.—In administering the
19 program, the Secretary shall—

20 “(1) encourage and enable States and other ju-
21 risdictions to work together to develop plans for
22 multimodal and multijurisdictional transportation
23 decisionmaking; and

1 “(2) give priority to studies or projects that em-
2 phasize multimodal planning, including planning for
3 operational improvements that—

4 “(A) increase—

5 “(i) mobility;

6 “(ii) freight productivity;

7 “(iii) access to marine or inland ports;

8 and

9 “(iv) safety and security; and

10 “(B) enhance the environment.

11 “(g) FEDERAL SHARE.—

12 “(1) IN GENERAL.—The Federal share of the
13 cost of a study or project carried out under the pro-
14 gram, using funds from all Federal sources, shall
15 not exceed 80 percent.

16 “(2) HIGHWAY TRUST FUND.—The share of the
17 cost of a study carried out under the program that
18 is paid using funds from the Highway Trust Fund
19 (other than the Mass Transit Account) shall not ex-
20 ceed 50 percent.

21 “(h) APPLICABILITY.—Funds authorized to be appro-
22 priated under section 1101(10) of the **【Safe, Accountable,**
23 **Flexible, and Efficient Transportation Equity Act of**
24 **2003】** to carry out this section shall be available for obli-

1 gation in the same manner as if the funds were appor-
2 tioned under this chapter.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
4 subchapter I of chapter 1 of title 23, United States Code
5 (as amended by section 1810(b)) is amended by adding
6 at the end the following:

“171. Multistate corridor program.”.

7 **SEC. 1812. BORDER PLANNING, OPERATIONS, AND TECH-**
8 **NOLOGY PROGRAM.**

9 (a) IN GENERAL.—Subchapter I of chapter 1 of title
10 23, United States Code (as amended by section 1811(a)),
11 is amended by adding at the end the following:

12 **“§ 172. Border planning, operations, and technology**
13 **program**

14 “(a) DEFINITIONS.—In this section:

15 “(1) BORDER STATE.—The term ‘border State’
16 means any of the States of Alaska, Arizona, Cali-
17 fornia, Idaho, Maine, Michigan, Minnesota, Mon-
18 tana, New Hampshire, New Mexico, New York,
19 North Dakota, Texas, Vermont, and Washington.

20 “(2) PROGRAM.—The term ‘program’ means
21 the border planning, operations, and technology pro-
22 gram established under subsection (b).

23 “(b) ESTABLISHMENT AND PURPOSE.—The Sec-
24 retary shall establish and carry out a border planning, op-
25 erations, technology, and capacity improvement program

1 to support coordination and improvement in bi-national
2 transportation planning, operations, efficiency, informa-
3 tion exchange, safety, and security at the international
4 borders of the United States with Canada and Mexico.

5 “(c) ELIGIBLE RECIPIENTS.—State transportation
6 departments and metropolitan planning organizations at
7 or near an international land border in a border State may
8 receive and administer funds allocated under the program.

9 “(d) ELIGIBLE ACTIVITIES.—

10 “(1) IN GENERAL.—The Secretary shall make
11 allocations under the program for projects to carry
12 out eligible activities described in paragraph (2) at
13 or near international land borders in border States.

14 “(2) ELIGIBLE ACTIVITIES.—The eligible activi-
15 ties referred to in paragraph (1) are—

16 “(A) highway and multimodal planning or
17 environmental studies;

18 “(B) cross-border port of entry and safety
19 inspection improvements, including operational
20 enhancements and technology applications;

21 “(C) technology and information exchange
22 activities; and

23 “(D) right-of-way acquisition, design, and
24 construction, as needed—

1 “(i) to implement the enhancements
2 or applications described in subparagraphs
3 (B) and (C);

4 “(ii) to decrease air pollution emis-
5 sions from vehicles or inspection facilities
6 at border crossings; or

7 “(iii) to increase highway capacity at
8 or near international borders.

9 “(e) OTHER PROVISIONS REGARDING ELIGI-
10 BILITY.—

11 “(1) IN GENERAL.—Each project funded under
12 the program shall be carried out in accordance with
13 the continuing, cooperative, and comprehensive plan-
14 ning processes required by sections 134 and 135.

15 “(2) REGIONALLY SIGNIFICANT PROJECTS.—To
16 be funded under the program, a regionally signifi-
17 cant project shall be included on the applicable
18 transportation plan and program required by sec-
19 tions 134 and 135.

20 “(f) SELECTION CRITERIA.—The Secretary shall se-
21 lect projects to be carried out under the program based
22 on—

23 “(1) expected benefits, including air quality
24 benefits, of the project in relation to the cost of the
25 project;

1 “(2) prospects for early completion of the
2 project;

3 “(3) endorsement of the project by formally
4 constituted bi-national organizations with Federal
5 and State or provincial representation;

6 “(4) the existence and significance of signed
7 and binding multijurisdictional agreements;

8 “(5) contributions, in amounts at least equal to
9 required minimums, of—

10 “(A) Federal funds made available for
11 other programs under this title; and

12 “(B) Federal funds made available under a
13 provision of law other than this title; and

14 “(6) the extent to which the benefits of the
15 project are multimodal.

16 “(g) PROGRAM PRIORITIES.—In administering the
17 program, the Secretary shall give priority to projects that
18 emphasize—

19 “(1) multimodal planning;

20 “(2) improvements in infrastructure; and

21 “(3) operational improvements that—

22 “(A) increase safety, security, freight
23 movement, or highway access to rail, marine,
24 and air services; and

25 “(B) enhance the environment.

1 “(h) FEDERAL SHARE.—The Federal share of the
2 cost of a project carried out under the program shall not
3 exceed 80 percent.

4 “(i) OBLIGATION.—Funds made available under sec-
5 tion 1101(11) of the **【Safe, Accountable, Flexible, and Ef-**
6 **ficient Transportation Equity Act of 2003】** to carry out
7 the program shall be available for obligation in the same
8 manner as if the funds were apportioned under this chap-
9 ter.

10 “(j) INFORMATION EXCHANGE.—No individual
11 project the scope of work of which is limited to informa-
12 tion exchange shall receive an allocation under the pro-
13 gram in an amount that exceeds \$500,000 for any fiscal
14 year.

15 “(k) PROJECTS IN CANADA OR MEXICO.—A project
16 in Canada or Mexico, proposed by a border State to di-
17 rectly and predominantly facilitate cross-border vehicle
18 and commercial cargo movements at an international gate-
19 way or port of entry into the border region of the State,
20 may be constructed using funds made available under the
21 program if, before obligation of those funds, Canada or
22 Mexico, or the political subdivision of Canada or Mexico
23 that is responsible for the operation of the facility to be
24 constructed, provides assurances satisfactory to the Sec-

1 retary that any facility constructed under this subsection
2 will be—

3 “(1) constructed in accordance with standards
4 equivalent to applicable standards in the United
5 States; and

6 “(2) properly maintained and used over the
7 useful life of the facility for the purpose for which
8 the Secretary allocated funds to the project.

9 “(1) TRANSFER OF FUNDS TO THE GENERAL SERV-
10 ICES ADMINISTRATION.—

11 “(1) STATE FUNDS.—At the request of a bor-
12 der State, funds made available under the program
13 may be transferred to the General Services Adminis-
14 tration for the purpose of funding 1 or more specific
15 projects if—

16 “(A) the Secretary determines, after con-
17 sultation with the State transportation depart-
18 ment of the border State, that the General
19 Services Administration should carry out the
20 project; and

21 “(B) the General Services Administration
22 agrees to accept the transfer of, and to admin-
23 ister, those funds.

24 “(2) NON-FEDERAL SHARE.—

1 “(A) IN GENERAL.—A border State that
2 makes a request under paragraph (1) shall pro-
3 vide directly to the General Services Adminis-
4 tration, for each project covered by the request,
5 the non-Federal share of the cost of each
6 project described in subsection (h).

7 “(B) NO AUGMENTATION OF APPROPRIA-
8 TIONS.—Funds provided by a border State
9 under subparagraph (A)—

10 “(i) shall not be considered to be an
11 augmentation of the appropriations made
12 available to the General Services Adminis-
13 tration; and

14 “(ii) shall be—

15 “(I) administered in accordance
16 with the procedures of the General
17 Services Administration; but

18 “(II) available for obligation in
19 the same manner as if the funds were
20 apportioned under this chapter.

21 “(C) OBLIGATION AUTHORITY.—Obligation
22 authority shall be transferred to the General
23 Services Administration in the same manner
24 and amount as the funds provided for projects
25 under subparagraph (A).

1 “(3) DIRECT TRANSFER OF AUTHORIZED
2 FUNDS.—

3 “(A) IN GENERAL.—In addition to alloca-
4 tions to States and metropolitan planning orga-
5 nizations under subsection (c), the Secretary
6 may transfer funds made available to carry out
7 this section to the General Services Administra-
8 tion for construction of transportation infra-
9 structure projects at or near the border in bor-
10 der States, if—

11 “(i) the Secretary determines that the
12 transfer is necessary to effectively carry
13 out the purposes of this program; and

14 “(ii) the General Services Administra-
15 tion agrees to accept the transfer of, and
16 to administer, those funds.

17 “(B) NO AUGMENTATION OF APPROPRIA-
18 TIONS.—Funds transferred by the Secretary
19 under subparagraph (A)—

20 “(i) shall not be considered to be an
21 augmentation of the appropriations made
22 available to the General Services Adminis-
23 tration; and

24 “(ii) shall be—

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1 “(I) administered in accordance
2 with the procedures of the General
3 Services Administration; but

4 “(II) available for obligation in
5 the same manner as if the funds were
6 apportioned under this chapter.

7 “(C) OBLIGATION AUTHORITY.—Obligation
8 authority shall be transferred to the General
9 Services Administration in the same manner
10 and amount as the funds transferred under
11 subparagraph (A).

12 “(D) NONAPPLICABILITY OF CERTAIN PRO-
13 VISION.—Section 120 shall not apply to the
14 transfer of funds under this paragraph.”.

15 (b) CONFORMING AMENDMENT.—The analysis for
16 subchapter I of chapter 1 of title 23, United States Code
17 (as amended by section 1811(b)), is amended by adding
18 at the end the following:

“172. Border planning, operations, and technology program.”.

19 **SEC. 1813. PUERTO RICO HIGHWAY PROGRAM.**

20 (a) IN GENERAL.—Subchapter I of chapter 1 of title
21 23, United States Code (as amended by section 1812(a)),
22 is amended by adding at the end the following:

23 **“§ 173. Puerto Rico highway program**

24 “(a) IN GENERAL.—The Secretary shall allocate
25 funds authorized by section 1101(a)(16) of the [Safe, Ac-

1 countable, Flexible, and Efficient Transportation Equity
2 Act of 2003】 for each of fiscal years 2004 through 2009
3 to the Commonwealth of Puerto Rico to carry out a high-
4 way program in the Commonwealth.

5 “(b) APPLICABILITY OF TITLE.—

6 “(1) IN GENERAL.—Amounts made available by
7 section 1101(a)(15) of the 【Safe, Accountable,
8 Flexible, and Efficient Transportation Equity Act of
9 2003】 shall be available for obligation in the same
10 manner as if such funds were apportioned under this
11 chapter.

12 “(2) LIMITATION ON OBLIGATIONS.—The
13 amounts shall be subject to any limitation on obliga-
14 tions for Federal-aid highway and highway safety
15 construction programs.

16 “(c) TREATMENT OF FUNDS.—Amounts made avail-
17 able to carry out this section for a fiscal year shall be ad-
18 ministered as follows:

19 “(1) APPORTIONMENT.—For purposes of this
20 section, the amounts shall be treated as being appor-
21 tioned to Puerto Rico under sections 104(b), 144,
22 and 206, for each program funded under those sec-
23 tions in an amount determined by multiplying—

24 “(A) the aggregate of the amounts for the
25 fiscal year; by

1 “(B) the ratio that—

2 “(i) the amount of funds apportioned
3 to Puerto Rico for each such program for
4 fiscal year 2003; bears to

5 “(ii) the total amount of funds appor-
6 tioned to Puerto Rico for all such pro-
7 grams for fiscal year 2003.

8 “(2) PENALTY.—The amounts treated as being
9 apportioned to Puerto Rico under each section re-
10 ferred to in paragraph (1) shall be deemed to be re-
11 quired to be apportioned to Puerto Rico under that
12 section for purposes of the imposition of any penalty
13 provisions in this title and title 49.

14 “(3) AFFECT ON ALLOCATIONS AND APPOR-
15 TIONMENTS.—Subject to paragraph (2), nothing in
16 this section affects any allocation under section 105
17 and any apportionment under sections 104 and
18 144.”.

19 (b) CONFORMING AMENDMENT.—The analysis for
20 subchapter I of chapter 1 of title 23, United States Code
21 (as amended by section 1812(b)), is amended by adding
22 at the end the following:

“173. Puerto Rico highway program.”.

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1 **SEC. 1814. NATIONAL HISTORIC COVERED BRIDGE PRESER-**
2 **VATION.**

3 (a) IN GENERAL.—Subchapter I of chapter 1 of title
4 23, United States Code (as amended by section 1813(a)),
5 is amended by adding at the end the following:

6 **“§ 174. National historic covered bridge preservation**

7 “(a) DEFINITION OF HISTORIC COVERED BRIDGE.—
8 In this section, the term ‘historic covered bridge’ means
9 a covered bridge that is listed or eligible for listing on the
10 National Register of Historic Places.

11 “(b) HISTORIC COVERED BRIDGE PRESERVATION.—

12 Subject to the availability of appropriations, the Secretary
13 shall—

14 “(1) collect and disseminate information on his-
15 toric covered bridges;

16 “(2) conduct educational programs relating to
17 the history and construction techniques of historic
18 covered bridges;

19 “(3) conduct research on the history of historic
20 covered bridges; and

21 “(4) conduct research on, and study techniques
22 for, protecting historic covered bridges from rot, fire,
23 natural disasters, or weight-related damage.

24 “(c) GRANTS.—

25 “(1) IN GENERAL.—Subject to the availability
26 of appropriations, the Secretary shall make a grant

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1 to a State that submits an application to the Sec-
2 retary that demonstrates a need for assistance in
3 carrying out 1 or more historic covered bridge
4 projects described in paragraph (2).

5 “(2) ELIGIBLE PROJECTS.—A grant under
6 paragraph (1) may be made for a project to—

7 “(A) rehabilitate or repair a historic cov-
8 ered bridge; or

9 “(B) preserve a historic covered bridge, in-
10 cluding through—

11 “(i) installation of a fire protection
12 system, including a fireproofing or fire de-
13 tection system and sprinklers;

14 “(ii) installation of a system to pre-
15 vent vandalism and arson; or

16 “(iii) relocation of a bridge to a pres-
17 ervation site.

18 “(3) AUTHENTICITY REQUIREMENTS.—A grant
19 under paragraph (1) may be made for a project only
20 if—

21 “(A) to the maximum extent practicable,
22 the project—

23 “(i) is carried out in the most histori-
24 cally appropriate manner; and

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1 “(ii) preserves the existing structure
2 of the historic covered bridge; and

3 “(B) the project provides for the replace-
4 ment of wooden components with wooden com-
5 ponents, unless the use of wood is impracticable
6 for safety reasons.

7 “(4) FEDERAL SHARE.—The Federal share of
8 the cost of a project carried out with a grant under
9 this subsection shall be 80 percent.

10 “(d) FUNDING.—There is authorized to be appro-
11 priated to carry out this section \$14,000,000 for each of
12 fiscal years 2004 through 2009, to remain available until
13 expended.”.

14 (b) CONFORMING AMENDMENT.—The analysis for
15 subchapter I of chapter 1 of title 23, United States Code
16 (as amended by section 1813(b)), is amended by adding
17 at the end the following:

“174. National historic covered bridge preservation.”.

18 **SEC. 1815. SURFACE TRANSPORTATION SYSTEM PERFORM-**
19 **ANCE PILOT PROGRAM.**

20 (a) IN GENERAL.—Subchapter I of chapter 1 of title
21 23, United States Code (as amended by section 1814(a)),
22 is amended by adding at the end the following:

23 **“§ 175. Surface transportation system performance**
24 **pilot program**

25 “(a) ESTABLISHMENT.—

1 “(1) IN GENERAL.—The Secretary shall carry
2 out a surface transportation system performance
3 pilot program (referred to in this section as the ‘pro-
4 gram’).

5 “(2) PURPOSES.—

6 “(A) IN GENERAL.—The purposes of the
7 program are to demonstrate—

8 “(i) the benefits of performance-based
9 management;

10 “(ii) the ways in which performance-
11 based management may best be incor-
12 porated into an effective Federally-as-
13 sisted, State-administered Federal-aid
14 highway program.

15 “(B) FEDERAL ROLE.—In carrying out the
16 program, the Secretary shall work closely with
17 States that are potential participants in the
18 program to determine ways—

19 “(i) to incorporate, into program-level
20 oversight performance, measures that re-
21 flect State and national interests; and

22 “(ii) to apply those measures to more
23 accurately determine the effectiveness of
24 the program.

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1 “(3) ASSUMPTION OF RESPONSIBILITY.—Sub-
2 ject to other provisions of this section, with the mu-
3 tual agreement of the Secretary and a State, a State
4 may assume all or a portion of the responsibilities
5 of the Secretary under this title or any other Fed-
6 eral law with respect to a project constructed using
7 funds made available under this section.

8 “(4) OBLIGATION OF FUNDS.—A State partici-
9 pating in the program—

10 “(A) may obligate funds under paragraphs
11 (1), (3), (4), and (5) of section 104(b), section
12 105, and section 144(e) for any purpose for
13 which Federal funds may be obligated by a
14 State under this title; and

15 “(B) shall reserve 10 percent of the funds
16 apportioned under section 104(b)(3) for each
17 fiscal year for use in carrying out transpor-
18 tation enhancement activities as specified in
19 section 133(d)(1).

20 “(b) STATE PARTICIPATION.—

21 “(1) NUMBER OF PARTICIPATING STATES.—
22 The Secretary may permit not more than 5 States
23 to participate in the program, of which 1 shall be
24 Oklahoma.

1 “(2) APPLICATION.—To participate in the pro-
2 gram, a State shall submit to the Secretary an appli-
3 cation that contains, at a minimum—

4 “(A) a description of the long-term and
5 short-term transportation goals of the State;

6 “(B) a description of the means by which
7 the State will address national security, inter-
8 state commerce, mobility, safety, environmental
9 stewardship, and such other areas of national
10 strategic importance as may be determined by
11 the Secretary, in reaching those goals;

12 “(C) a description of the performance
13 measures under which the progress and success
14 of the State toward reaching the goals will be
15 measured;

16 “(D) a description of the manner in which
17 funding will be distributed equitably across the
18 State, including—

19 “(i) distribution to urbanized areas
20 with populations in excess of 200,000; and

21 “(ii) consultation with local units of
22 government in the process of program de-
23 velopment and implementation;

24 “(E) evidence of the notice and solicitation
25 of public comment by the State relating to the

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1 program, including copies of comments received
2 from that solicitation; and

3 “(F) such other information as the Sec-
4 retary may require.

5 “(3) PUBLIC NOTICE.—

6 “(A) IN GENERAL.—Each State that sub-
7 mits an application under this subsection shall
8 give public notice of the intent of the State to
9 participate in the program not later than 20
10 days before the date of submission of the appli-
11 cation.

12 “(B) METHOD OF NOTICE AND SOLICITA-
13 TION.—The State shall provide notice and so-
14 licit public comment under this paragraph by
15 publishing the complete application of the State
16 in accordance with the appropriate public notice
17 law of the State.

18 “(4) SELECTION CRITERIA.—

19 “(A) IN GENERAL.—The Secretary may
20 approve the application of a State under this
21 section only if the application demonstrates to
22 the satisfaction of the Secretary the means by
23 which the State plans to address the areas of
24 national strategic importance described in sub-
25 section (b)(2)(B).

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1 “(B) PRIORITIZATION.—The Secretary
2 shall prioritize the approval of applications
3 under this paragraph based on, as determined
4 by the Secretary—

5 “(i) the degree to which the proposed
6 goals of the applicant address the areas of
7 national strategic importance described in
8 subsection (b)(2)(B);

9 “(ii) the ability of the State to man-
10 age and monitor State programs on a per-
11 formance basis;

12 “(iii) the commitment of the State to
13 conduct required evaluations under the
14 program;

15 “(iv) the degree to which the applica-
16 tion otherwise proposes to achieve the pur-
17 poses of this section.

18 “(c) PROGRAM ELEMENTS.—

19 “(1) STATE AGREEMENT TO ASSUME SEC-
20 RETARY’S RESPONSIBILITIES.—

21 “(A) ASSIGNMENT AND ASSUMPTION OF
22 RESPONSIBILITIES.—

23 “(i) IN GENERAL.—The Secretary and
24 a State may agree, as provided in this sec-
25 tion, that the Secretary will assign to the

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1 State, and the State will assume, all or
2 part of the responsibilities of the Secretary
3 under any Federal law or requirement (ex-
4 cept for responsibilities relating to feder-
5 ally recognized Indian tribes) with respect
6 to any project constructed with Federal
7 funds under the program.

8 “(ii) EQUIVALENT REQUIREMENTS.—
9 A State shall assume responsibilities under
10 clause (i) subject to the same procedural
11 and substantive requirements as would
12 apply if the responsibilities were carried
13 out by the Secretary.

14 “(iii) LIABILITY.—A State that as-
15 sumes responsibilities under clause (i)
16 shall—

17 “(I) be solely responsible and
18 solely liable for complying with and
19 carrying out, in lieu of the Secretary,
20 the law under which responsibilities of
21 the Secretary were assumed; and

22 “(II) submit a certification in ac-
23 cordance with subsection (f)(1).

24 “(B) FEDERAL ROLE OF STATE.—For the
25 purpose of assuming the responsibilities of the

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1 Secretary under this paragraph, to the extent
2 the State is carrying out the responsibilities of
3 the Secretary under this title, the National En-
4 vironmental Policy Act of 1969 (42 U.S.C.
5 4321 et seq.), or any other Federal law, the
6 State shall—

7 “(i) be deemed to be a Federal agency
8 under the Federal law; and

9 “(ii) agree that the State transpor-
10 tation department, or any other State
11 agency carrying out a responsibility of the
12 Secretary under this section, shall be sub-
13 ject to Federal law to the same extent as
14 a Federal agency would be subject to that
15 Federal law.

16 “(C) STATE CERTIFICATION OF ASSUMP-
17 TION OF RESPONSIBILITIES.—In a case in
18 which a State assumes any responsibility of the
19 Secretary under a Federal law, the State shall
20 certify that State laws (including regulations)
21 are in effect that—

22 “(i) authorize the State to take the
23 actions necessary to carry out the respon-
24 sibilities being assumed; and

1 “(ii) are comparable to section 552 of
2 title 5, including providing that any deci-
3 sion regarding the public availability of a
4 document under those State laws is review-
5 able by a court of competent authority.

6 “(2) OTHER FEDERAL AGENCY VIEWS.—If a
7 State assumes a responsibility of the Secretary
8 under paragraph (1) that would have required the
9 Secretary to consult with another Federal agency,
10 the Secretary shall solicit the views of the Federal
11 agency before entering into or renewing any agree-
12 ment for the assumption of authority by a State
13 under this section.

14 “(3) MAINTENANCE OF EFFORT.—The Sec-
15 retary shall not make any apportionment to a State
16 participating in the program for any fiscal year
17 under paragraph (1), (2), (4), or (5) of section
18 104(b), section 105, or section 144(e), unless the
19 State enters into such agreements with the Sec-
20 retary as the Secretary may require to ensure that
21 the State maintains the non-Federal transportation
22 capital expenditures for any subsequent fiscal year
23 at a level that is at least equal to the average level
24 of those expenditures by the State for the preceding
25 3 fiscal years.

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1 “(4) FEDERAL SHARE PAYABLE.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), the Federal share of the
4 costs of a project carried out under the pro-
5 gram with funds apportioned under any provi-
6 sion of law referred to in paragraph (3) shall
7 not exceed 100 percent.

8 “(B) EXCEPTION.—The Federal share of
9 the cost of a transportation enhancement
10 project under section 133(d)(2) shall be deter-
11 mined in accordance with applicable provisions
12 of this title, as determined by the Secretary.

13 “(d) PROGRAM AGREEMENT.—

14 “(1) IN GENERAL.—For each fiscal year, before
15 apportioning funds to a State participating in the
16 program, the Secretary shall enter into an agree-
17 ment with the State establishing performance goals
18 and performance measures of the State for the pro-
19 gram.

20 “(2) AGREEMENT CONCERNING PARTICIPATING
21 STATE RESPONSIBILITIES.—In carrying out para-
22 graph (1), the Secretary shall enter into 1 or more
23 agreements with a State that—

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1 “(A) identifies which, if any, Federal laws
2 or requirements the State will carry out under
3 subsection (c); and

4 “(B) specifies management responsibilities
5 of the State, including the role of the State in
6 relation to other Federal agencies.

7 “(3) GOALS.—The Secretary and a partici-
8 pating State shall agree, based on the priorities of
9 the State and the areas of national strategic impor-
10 tance determined by the Secretary under subsection
11 (b)(2)(B), on the long-term and short-term goals to
12 be achieved using the amounts apportioned to the
13 State under the program.

14 “(4) PERFORMANCE MEASURES.—

15 “(A) IN GENERAL.—The Secretary and the
16 State shall mutually establish the performance
17 measures that the State shall use with respect
18 to the goals identified in paragraph (3).

19 “(B) CONTINUED PARTICIPATION.—

20 “(i) IN GENERAL.—Continued partici-
21 pation of a State in the program shall be
22 contingent on the State meeting the per-
23 formance measures established under sub-
24 paragraph (A).

1 “(ii) FAILURE TO MEET MEASURES.—

2 If a State fails to meet the performance
3 measures during 2 consecutive years, as
4 determined by the Secretary, the Secretary
5 shall terminate the participation of the
6 State in the program.

7 “(5) COMPLIANCE.—If a participating State
8 fails to comply with any provision of this section, the
9 Secretary shall take such actions as are necessary to
10 ensure compliance, including termination of the par-
11 ticipation of the State in the program.

12 “(e) LIMITATIONS ON AGREEMENTS.—

13 “(1) IN GENERAL.—Nothing in this section re-
14 lieves the Secretary of any responsibility of the Sec-
15 retary under—

16 “(A) title VI of the Civil Rights Act of
17 1964 (42 U.S.C. 2000d et seq.);

18 “(B) section 106(h); or

19 “(C) the statewide and metropolitan plan-
20 ning requirements of sections 134 and 135.

21 “(2) REGULATORY RESPONSIBILITIES.—Noth-
22 ing in this section permits a State to assume any of
23 the rulemaking authority of the Secretary under any
24 Federal law.

1 “(f) STATE REPORTING AND ACCOUNTABILITY.—A
2 State participating in the program shall provide to the
3 Secretary, separately or in combination—

4 “(1) as a prerequisite to the agreement of the
5 Secretary that a State will assume any of the re-
6 sponsibilities of the Secretary under this section, and
7 before obligation of any funds under the program for
8 any fiscal year, an annual certification that—

9 “(A) is in a form acceptable to the Sec-
10 retary;

11 “(B) is executed by the Governor or the
12 top-ranking transportation official in the State
13 who is charged with the responsibility for high-
14 way construction;

15 “(C) specifies that the State will fully
16 carry out each of the responsibilities assumed
17 by the State under this section;

18 “(D) specifies that the State consents to
19 assume the status of the Secretary under any
20 responsibility assumed by the State; and

21 “(E) expressly consents, on behalf of the
22 State, to accept the jurisdiction of the Federal
23 courts for the compliance, discharge, and en-
24 forcement of any responsibility of the Secretary
25 assumed by the State;

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1 “(2) not later than September 30 of each fiscal
2 year for which a State obligates funds under the
3 program, a certification that the State—

4 “(A) obligated those funds only for
5 projects that would otherwise be eligible for as-
6 sistance under this title; and

7 “(B) reserved for obligation the amounts
8 specified in section 133(d)(1);

9 “(3) an annual accounting for the amounts obli-
10 gated under the program for the fiscal year covered
11 by the accounting in such form as the Secretary de-
12 termines provides an adequate basis for evaluating
13 the effect of expenditures under the program; and

14 “(4) not later than September 30 of each fiscal
15 year, a narrative report that describes—

16 “(A) the benefits of the program for the
17 State; and

18 “(B) any recommendations of ways in
19 which the program could be improved.

20 “(g) TERMINATION.—

21 “(1) IN GENERAL.—Except as provided in para-
22 graph (2), the program shall terminate on the date
23 that is 6 years after the date of enactment of this
24 section.

1 “(2) FUNDING.—Notwithstanding the date of
2 termination specified in paragraph (1), funding obli-
3 gated under the program shall continue to be admin-
4 istered under the terms of the program until such
5 time as those funds have been expended.”.

6 (b) CONFORMING AMENDMENT.—The analysis for
7 subchapter I of chapter 1 of title 23, United States Code
8 (as amended by section 1814(b)) is amended by adding
9 at the end the following:

 “175. Surface transportation system performance pilot program.”.

10 **SEC. 1816. TRANSPORTATION AND COMMUNITY AND SYS-**
11 **TEM PRESERVATION PILOT PROGRAM.**

12 (a) IN GENERAL.—Subchapter I of chapter 1 of title
13 23, United States Code (as amended by section 1815(a)),
14 is amended by adding at the end the following:

15 **“§ 176. Transportation, community, and system pres-**
16 **ervation program**

17 “(a) ESTABLISHMENT.—The Secretary shall estab-
18 lish a comprehensive program to facilitate the planning,
19 development, and implementation of strategies by States,
20 metropolitan planning organizations, federally-recognized
21 Indian tribes, and local governments to integrate transpor-
22 tation, community, and system preservation plans and
23 practices that address 1 or more of the goals described
24 in subsection (b).

25 “(b) GOALS.—The goals of the program are—

1 “(1) to improve the efficiency of the transpor-
2 tation system in the United States;

3 “(2) to reduce the impacts of transportation on
4 the environment;

5 “(3) reduce the need for costly future invest-
6 ments in public infrastructure;

7 “(4) to provide efficient access to jobs, services,
8 and centers of trade; and

9 “(5) to examine development patterns, and to
10 identify strategies, to encourage private sector devel-
11 opment patterns that achieve the goals identified in
12 paragraphs (1) through (4).

13 “(c) FUNDING.—

14 “(1) IN GENERAL.—There is authorized to be
15 appropriated from the Highway Trust Fund (other
16 than the Mass Transit Account) to carry out this
17 section \$30,000,000 for each of fiscal years 2004
18 through 2009.

19 “(2) CONTRACT AUTHORITY.—Funds author-
20 ized under this subsection shall be available for obli-
21 gation in the same manner as if the funds were ap-
22 portioned under this chapter.”.

23 (b) FUNDING FOR TRANSPORTATION, COMMUNITY,
24 AND SYSTEM PRESERVATION PROGRAM.—Section 104 of

1 title 23, United States Code (as amended by section
2 1611(b)), is amended by adding at the end the following:

3 “(p) FUNDING FOR TRANSPORTATION, COMMUNITY,
4 AND SYSTEM PRESERVATION PROGRAM.—

5 “(1) SET-ASIDE.—On October 1 of each fiscal
6 year, for each of fiscal years 2004 through 2009, the
7 Secretary, after making the deductions authorized
8 by subsections (a) and (f), shall set aside
9 \$26,000,000 of the remaining funds authorized to be
10 apportioned under subsection (b)(3) for use in car-
11 rying out the transportation, community, and system
12 preservation program under section 172.

13 “(2) APPORTIONMENT.—

14 “(A) IN GENERAL.—Of the amounts set
15 aside under paragraph (1) for each fiscal year,
16 the Secretary shall apportion \$500,000 to each
17 State to carry out section 172.

18 “(B) STATE RESPONSIBILITY.—A State
19 that receives funds under this subsection shall
20 make funds available to metropolitan planning
21 organizations, federally recognized Indian
22 tribes, and local governments in such manner
23 and in such amounts as the State determines
24 are necessary to carry out section 172.”.

1 (c) ELIGIBLE PROJECTS.—Section 133(b) of title 23,
2 United States Code (as amended by section 1701(a)), is
3 amended by adding at the end the following:

4 “(17) Transportation and community system
5 preservation to facilitate the planning, development,
6 and implementation of strategies of metropolitan
7 planning organizations and local governments to in-
8 tegrate transportation, community, and system pres-
9 ervation plans and practices that address 1 or more
10 of the following:

11 “(A) Improvement of the efficiency of the
12 transportation system in the United States.

13 “(B) Reduction of the impacts of transpor-
14 tation on the environment.

15 “(C) Reduction of the need for costly fu-
16 ture investments in public infrastructure.

17 “(D) Provision of efficient access to jobs,
18 services, and centers of trade.

19 “(E) Examination of development pat-
20 terns, and identification of strategies to encour-
21 age private sector development patterns, that
22 achieve the goals identified in subparagraphs
23 (A) through (D).”.

24 (d) CONFORMING AMENDMENT.—The analysis for
25 subchapter I of chapter 1 of title 23, United States Code

1 (as amended by section 1815(b)), is amended by adding
2 at the end the following:

“176. Transportation and community and system preservation pilot program.”.

3 **SEC. 1817. TRIBAL-STATE ROAD MAINTENANCE AGREE-**
4 **MENTS.**

5 Section 204 of title 23, United States Code (as
6 amended by section 1804(f)(4)), is amended by adding at
7 the end the following:

8 “(n) TRIBAL-STATE ROAD MAINTENANCE AGREE-
9 MENTS.—

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of law, regulation, policy, or guideline, an
12 Indian tribe and a State may enter into a road
13 maintenance agreement under which an Indian tribe
14 assumes the responsibilities of the State for—

15 “(A) Indian reservation roads; and

16 “(B) roads providing access to Indian res-
17 ervation roads.

18 “(2) TRIBAL-STATE AGREEMENTS.—Agree-
19 ments entered into under paragraph (1)—

20 “(A) shall be negotiated between the State
21 and the Indian tribe; and

22 “(B) shall not require the approval of the
23 Secretary.

24 “(3) ANNUAL REPORT.—Effective beginning
25 with fiscal year 2004, the Secretary shall prepare

1 and submit to Congress an annual report that
2 identifies—

3 “(A) the Indian tribes and States that
4 have entered into agreements under paragraph
5 (1);

6 “(B) the number of miles of roads for
7 which Indian tribes have assumed maintenance
8 responsibilities; and

9 “(C) the amount of funding transferred to
10 Indian tribes for the fiscal year under agree-
11 ments entered into under paragraph (1).”.

12 **SEC. 1818. TERRITORIAL HIGHWAY PROGRAM.**

13 (a) IN GENERAL.—Chapter 2 of title 23, United
14 States Code, is amended by striking section 215 and in-
15 serting the following:

16 **“§ 215. Territorial highway program**

17 “(a) DEFINITIONS.—In this section:

18 “(1) PROGRAM.—The term ‘program’ means
19 the territorial highway program established under
20 subsection (b).

21 “(2) TERRITORY.—The term ‘territory’ means
22 the any of the following territories of the United
23 States:

24 “(A) American Samoa.

1 “(B) The Commonwealth of the Northern
2 Mariana Islands.

3 “(C) Guam.

4 “(D) The United States Virgin Islands.

5 “(b) PROGRAM.—

6 “(1) IN GENERAL.—Recognizing the mutual
7 benefits that will accrue to the territories and the
8 United States from the improvement of highways in
9 the territories, the Secretary may carry out a pro-
10 gram to assist each territorial government in the
11 construction and improvement of a system of arte-
12 rial and collector highways, and necessary inter-is-
13 land connectors, that is—

14 “(A) designated by the Governor or chief
15 executive officer of each territory; and

16 “(B) approved by the Secretary.

17 “(2) FEDERAL ASSISTANCE.—The Secretary
18 shall provide Federal financial assistance to terri-
19 tories under this section in accordance with section
20 120(h).

21 “(c) TECHNICAL ASSISTANCE.—

22 “(1) IN GENERAL.—To continue a long-range
23 highway development program, the Secretary may
24 provide technical assistance to the governments of

1 the territories to enable the territories to, on a con-
2 tinuing basis—

3 “(A) engage in highway planning;

4 “(B) conduct environmental evaluations;

5 “(C) administer right-of-way acquisition
6 and relocation assistance programs; and

7 “(D) design, construct, operate, and main-
8 tain a system of arterial and collector highways,
9 including necessary inter-island connectors.

10 “(2) FORM AND TERMS OF ASSISTANCE.—Tech-
11 nical assistance provided under paragraph (1), and
12 the terms for the sharing of information among ter-
13 ritories receiving the technical assistance, shall be
14 included in the agreement required by subsection
15 (e).

16 “(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

17 “(1) IN GENERAL.—Except to the extent that
18 provisions of chapter 1 are determined by the Sec-
19 retary to be inconsistent with the needs of the terri-
20 tories and the intent of the program, chapter 1
21 (other than provisions of chapter 1 relating to the
22 apportionment and allocation of funds) shall apply
23 to funds authorized to be appropriated for the pro-
24 gram.

1 “(2) APPLICABLE PROVISIONS.—The specific
2 sections of chapter 1 that are applicable to each ter-
3 ritory, and the extent of the applicability of those
4 section, shall be identified in the agreement required
5 by subsection (e).

6 “(e) AGREEMENT.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (3), none of the funds made available for the
9 program shall be available for obligation or expendi-
10 ture with respect to any territory until the Governor
11 or chief executive officer of the territory enters into
12 a new agreement with the Secretary (which new
13 agreement shall be entered into not later than 1 year
14 after the date of enactment of the [Safe, Account-
15 able, Flexible, and Efficient Transportation Equity
16 Act of 2003]), providing that the government of the
17 territory shall—

18 “(A) implement the program in accordance
19 with applicable provisions of chapter 1 and sub-
20 section (d);

21 “(B) design and construct a system of ar-
22 terial and collector highways, including nec-
23 essary inter-island connectors, in accordance
24 with standards that are—

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1 “(i) appropriate for each territory;

2 and

3 “(ii) approved by the Secretary;

4 “(C) provide for the maintenance of facili-

5 ties constructed or operated under this section

6 in a condition to adequately serve the needs of

7 present and future traffic; and

8 “(D) implement standards for traffic oper-

9 ations and uniform traffic control devices that

10 are approved by the Secretary.

11 “(2) TECHNICAL ASSISTANCE.—The new agree-

12 ment required by paragraph (1) shall—

13 “(A) specify the kind of technical assist-

14 ance to be provided under the program;

15 “(B) include appropriate provisions regard-

16 ing information sharing among the territories;

17 and

18 “(C) delineate the oversight role and re-

19 sponsibilities of the territories and the Sec-

20 retary.

21 “(3) REVIEW AND REVISION OF AGREEMENT.—

22 The new agreement entered into under paragraph

23 (1) shall be reevaluated and, as necessary, revised,

24 at least every 2 years.

1 “(4) EXISTING AGREEMENTS.—With respect to
2 an agreement between the Secretary and the Gov-
3 ernor or chief executive officer of a territory that is
4 in effect as of the date of enactment of the [Safe,
5 Accountable, Flexible, and Efficient Transportation
6 Equity Act of 2003]—

7 “(A) the agreement shall continue in force
8 until replaced by a new agreement in accord-
9 ance with paragraph (1); and

10 “(B) amounts made available for the pro-
11 gram under the agreement shall be available for
12 obligation or expenditure so long as the agree-
13 ment, or a new agreement under paragraph (1),
14 is in effect.

15 “(f) PERMISSIBLE USES OF FUNDS.—

16 “(1) IN GENERAL.—Funds made available for
17 the program may be used only for the following
18 projects and activities carried out in a territory:

19 “(A) Eligible surface transportation pro-
20 gram projects described in section 133(b).

21 “(B) Cost-effective, preventive mainte-
22 nance consistent with section 116.

23 “(C) Ferry boats, terminal facilities, and
24 approaches, in accordance with subsections (b)
25 and (c) of section 129.

1 “(D) Engineering and economic surveys
2 and investigations for the planning, and the fi-
3 nancing, of future highway programs.

4 “(E) Studies of the economy, safety, and
5 convenience of highway use.

6 “(F) The regulation and equitable taxation
7 of highway use.

8 “(G) Such research and development as
9 are necessary in connection with the planning,
10 design, and maintenance of the highway system.

11 “(2) PROHIBITION ON USE OF FUNDS FOR ROU-
12 TINE MAINTENANCE.—None of the funds made
13 available for the program shall be obligated or ex-
14 pended for routine maintenance.

15 “(g) LOCATION OF PROJECTS.—Territorial highway
16 projects (other than those described in paragraphs (1),
17 (3), and (4) of section 133(b)) may not be undertaken on
18 roads functionally classified as local.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) ELIGIBLE PROJECTS.—Section 103(b)(6) of
21 title 23, United States Code, is amended by striking
22 subparagraph (P) and inserting the following:

23 “(P) Projects eligible for assistance under the
24 territorial highway program under section 215.”.

1 (2) FUNDING.—Section 104(b)(1)(A) of title
2 23, United States Code, is amended by striking “to
3 the Virgin Islands, Guam, American Samoa, and the
4 Commonwealth of Northern Mariana Islands” and
5 inserting “for the territorial highway program au-
6 thorized under section 215”.

7 (3) ANALYSIS.—The analysis for chapter 2 of
8 title 23, United States Code, is amended by striking
9 the item relating to section 215 and inserting the
10 following:

“215. Territorial highway program.”.

11 **SEC. 1819. MAGNETIC LEVITATION TRANSPORTATION**
12 **TECHNOLOGY DEPLOYMENT PROGRAM.**

13 Section 322 of title 23, United States Code, is
14 amended—

15 (1) in subsection (c)—

16 (A) by striking “Not later than” and in-
17 serting the following:

18 “(1) INITIAL SOLICITATION.—Not later than”;
19 and

20 (B) by adding at the end the following:

21 “(2) ADDITIONAL SOLICITATION.—Not later
22 than 1 year after the date of enactment of this para-
23 graph, the Secretary may solicit additional applica-
24 tions from States, or authorities designated by 1 or
25 more States, for financial assistance authorized by

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1 subsection (b) for planning, design, and construction
2 of eligible MAGLEV projects.”;

3 (2) in subsection (e), by striking “Prior to solici-
4 ting applications, the Secretary” and inserting “The
5 Secretary”;

6 (3) in subsection (h)—

7 (A) in subparagraph (A), by striking
8 clause (i) and inserting the following:

9 “(i) IN GENERAL.—There are author-
10 ized to be appropriated from the Highway
11 Trust Fund (other than the Mass Transit
12 Account) to carry out this section,
13 \$15,000,000 for each of fiscal years 2004
14 through 2009.”; and

15 (B) in subparagraph (B), by striking
16 clause (i) and inserting the following:

17 “(i) IN GENERAL.—There are author-
18 ized to be appropriated from the Highway
19 Trust Fund (other than the Mass Transit
20 Account) to carry out this section—

21 “(I) \$375,000,000 for fiscal year
22 2004;

23 “(II) \$400,000,000 for fiscal
24 year 2005;

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1 “(III) \$415,000,000 for fiscal
2 year 2006;

3 “(IV) \$425,000,000 for fiscal
4 year 2007;

5 “(V) \$435,000,000 for fiscal year
6 2008; and

7 “(VI) \$450,000,000 for fiscal
8 year 2009.”; and

9 (4) by striking subsection (i).

10 **SEC. 1820. DONATIONS AND CREDITS.**

11 Section 323 of title 23, United States Code, is
12 amended—

13 (1) in the first sentence of subsection (c), by in-
14 serting “, or a local government from offering to do-
15 nate funds, materials, or services performed by local
16 government employees,” after “services”; and

17 (2) striking subsection (e).

18 **SEC. 1821. DISADVANTAGED BUSINESS ENTERPRISES.**

19 (a) GENERAL RULE.—Except to the extent that the
20 Secretary determines otherwise, not less than 10 percent
21 of the amounts made available for any program under ti-
22 tles I, III, and V of this Act shall be expended with small
23 business concerns owned and controlled by socially and
24 economically disadvantaged individuals.

1 (b) DEFINITIONS.—In this section, the following defi-
2 nitions apply:

3 (1) SMALL BUSINESS CONCERN.—The term
4 “small business concern” has the meaning such term
5 has under section 3 of the Small Business Act (15
6 U.S.C. 632); except that such term shall not include
7 any concern or group of concerns controlled by the
8 same socially and economically disadvantaged indi-
9 vidual or individuals which has average annual gross
10 receipts over the preceding 3 fiscal years in excess
11 of \$17,420,000, as adjusted by the Secretary for in-
12 flation.

13 (2) SOCIALLY AND ECONOMICALLY DISADVAN-
14 TAGED INDIVIDUALS.—The term “socially and eco-
15 nomically disadvantaged individuals” has the mean-
16 ing such term has under section 8(d) of the Small
17 Business Act (15 U.S.C. 637(d)) and relevant sub-
18 contracting regulations promulgated pursuant there-
19 to; except that women shall be presumed to be so-
20 cially and economically disadvantaged individuals for
21 purposes of this section.

22 (c) ANNUAL LISTING OF DISADVANTAGED BUSINESS
23 ENTERPRISES.—Each State shall annually survey and
24 compile a list of the small business concerns referred to
25 in subsection (a) and the location of such concerns in the

1 State and notify the Secretary, in writing, of the percent-
2 age of such concerns which are controlled by women, by
3 socially and economically disadvantaged individuals (other
4 than women), and by individuals who are women and are
5 otherwise socially and economically disadvantaged individ-
6 uals.

7 (d) UNIFORM CERTIFICATION.—The Secretary shall
8 establish minimum uniform criteria for State governments
9 to use in certifying whether a concern qualifies for pur-
10 poses of this subsection. Such minimum uniform criteria
11 shall include, but not be limited to, on-site visits, personal
12 interviews, licenses, analysis of stock ownership, listing of
13 equipment, analysis of bonding capacity, listing of work
14 completed, resume of principal owners, financial capacity,
15 and type of work preferred.

16 (e) COMPLIANCE WITH COURT ORDERS.—Nothing in
17 this section limits the eligibility of an entity or person to
18 receive funds made available under titles I, III, and V of
19 this Act, if the entity or person is prevented, in whole or
20 in part, from complying with subsection (a) because a
21 Federal court issues a final order in which the court finds
22 that the requirement of subsection (a), or the program es-
23 tablished under subsection (a), is unconstitutional.

1 **Subtitle I—Technical Corrections**

2 **SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.**

3 (a) LETTING OF CONTRACTS.—Section 112 of title
4 23, United States Code, is amended—

5 (1) by striking subsection (f); and

6 (2) by redesignating subsection (g) as sub-
7 section (f).

8 (b) FRINGE AND CORRIDOR PARKING FACILITIES.—

9 Section 137(a) of title 23, United States Code, is amended
10 in the first sentence by striking “on the Federal-aid urban
11 system” and inserting “on a Federal-aid highway”.

12 **SEC. 1902. CLARIFICATION OF DATE.**

13 Section 109(g) of title 23, United States Code, is
14 amended in the first sentence by striking “The Secretary”
15 and all that follows through “of 1970” and inserting “Not
16 later than January 30, 1971, the Secretary shall issue”.

17 **SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.**

18 (a) IN GENERAL.—Section 154 of the Federal-Aid
19 Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209)
20 is—
21 is—

22 (1) transferred to title 23, United States Code;

23 (2) redesignated as section 321;

24 (3) moved to appear after section 320 of that
25 title; and

1 (4) amended by striking the section heading
2 and inserting the following:

3 **“§ 321. Signs identifying funding sources”.**

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 3 of title 23, United States Code, is amended by
6 inserting after the item relating to section 320 the fol-
7 lowing:

“321. Signs identifying funding sources.”.

8 **SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN**

9 **TITLE 23.**

10 (a) IN GENERAL.—Section 165 of the Highway Im-
11 provement Act of 1982 (23 U.S.C. 101 note; 96 Stat.
12 2136) is—

13 (1) transferred to title 23, United States Code;

14 (2) redesignated as section 313;

15 (3) moved to appear after section 312 of that
16 title; and

17 (4) amended by striking the section heading
18 and inserting the following:

19 **“§ 313. Buy America”.**

20 (b) CONFORMING AMENDMENTS.—

21 (1) The analysis for chapter 3 of title 23,
22 United States Code, is amended by inserting after
23 the item relating to section 312 the following:

“313. Buy America.”.

1 (2) Section 313 of title 23, United States Code
2 (as added by subsection (a)), is amended—

3 (A) in subsection (a), by striking “by this
4 Act” the first place it appears and all that fol-
5 lows through “of 1978” and inserting “to carry
6 out the Surface Transportation Assistance Act
7 of 1982 (96 Stat. 2097) or this title”;

8 (B) in subsection (b), by redesignating
9 paragraph (4) as paragraph (3);

10 (C) in subsection (d), by striking “this
11 Act,” and all that follows through “Code,
12 which” and inserting “the Surface Transpor-
13 tation Assistance Act of 1982 (96 Stat. 2097)
14 or this title that”;

15 (D) by striking subsection (e); and

16 (E) by redesignating subsections (f) and
17 (g) as subsections (e) and (f), respectively.

18 **SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINA-**
19 **TION SECTION.**

20 Section 140 of title 23, United States Code, is
21 amended—

22 (1) in subsection (a)—

23 (A) in the first sentence, by striking “sub-
24 section (a) of section 105 of this title” and in-
25 serting “section 135”;

9-4

1 (B) in the second sentence, by striking
2 “He” and inserting “The Secretary”;

3 (C) in the third sentence, by striking
4 “where he considers it necessary to assure” and
5 inserting “if necessary to ensure”; and

6 (D) in the last sentence—

7 (i) by striking “him” and inserting
8 “the Secretary” and

9 (ii) by striking “he” and inserting
10 “the Secretary”;

11 (2) in subsection (b)—

12 (A) in the first sentence, by striking “high-
13 way construction” and inserting “surface trans-
14 portation”; and

15 (B) in the second sentence—

16 (i) by striking “as he may deem nec-
17 essary” and inserting “as necessary”; and

18 (ii) by striking “not to exceed
19 \$2,500,000 for the transition quarter end-
20 ing September 30, 1976, and”;

21 (3) in the second sentence of subsection (c)—

22 (A) by striking “subsection 104(b)(3) of
23 this title” and inserting “section 104(b)(3)”;
24 and

25 (B) by striking “he may deem”; and

9-5

- 1 (4) in the heading of subsection (d), by striking
- 2 “AND CONTRACTING”.

10-1

1 **TITLE II—TRANSPORTATION**
2 **RESEARCH**
3 **Subtitle A—Funding**

4 **SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—The following sums are author-
6 ized to be appropriated out of the Highway Trust Fund
7 (other than the Mass Transit Account):

8 (1) SURFACE TRANSPORTATION RESEARCH.—

9 (A) IN GENERAL.—For carrying out sec-
10 tions 502, 503, 506, 507, and 508 of title 23,
11 United States Code—

12 (i) \$211,000,000 for each of fiscal
13 years 2004 and 2005;

14 (ii) \$215,000,000 for fiscal year 2006;

15 (iii) \$218,000,000 for fiscal year
16 2007;

17 (iv) \$220,000,000 for fiscal year
18 2008; and

19 (v) \$223,000,000 for fiscal year 2009.

20 (B) SURFACE TRANSPORTATION-ENVIRON-
21 MENTAL COOPERATIVE RESEARCH PROGRAM.—

22 For each of fiscal years 2004 through 2009, the
23 Secretary shall set aside \$20,000,000 of the
24 funds apportioned under subparagraph (A) to

10-2

1 carry out the surface transportation-environ-
2 mental cooperative research program.

3 (2) TRAINING AND EDUCATION.—For carrying
4 out section 504 of title 23, United States Code—

5 (A) \$27,000,000 for fiscal year 2004;

6 (B) \$28,000,000 for fiscal year 2005;

7 (C) \$29,000,000 for fiscal year 2006;

8 (D) \$30,000,000 for fiscal year 2007;

9 (E) \$31,000,000 for fiscal year 2008; and

10 (F) \$32,000,000 for fiscal year 2009.

11 (3) BUREAU OF TRANSPORTATION STATIS-
12 TICS.—For the Bureau of Transportation Statistics
13 to carry out section 111 of title 49, United States
14 Code, \$28,000,000 for each of fiscal years 2004
15 through 2009.

16 (4) ITS STANDARDS, RESEARCH, OPERATIONAL
17 TESTS, AND DEVELOPMENT.—For carrying out sec-
18 tions 524, 525, 526, 527, 528, and 529 of title 23,
19 United States Code—

20 (A) \$120,000,000 for fiscal year 2004;

21 (B) \$123,000,000 for fiscal year 2005;

22 (C) \$126,000,000 for fiscal year 2006;

23 (D) \$129,000,000 for fiscal year 2007;

24 (E) \$132,000,000 for fiscal year 2008; and

25 (F) \$135,000,000 for fiscal year 2009.

10-3

1 (5) UNIVERSITY TRANSPORTATION CENTERS.—
2 For carrying out section 510 of title 23, United
3 States Code—

4 (A) \$40,000,000 for fiscal year 2004; and
5 (B) \$45,000,000 for each of fiscal years
6 2005 through 2009.

7 (b) APPLICABILITY OF TITLE 23, UNITED STATES
8 CODE.—Funds authorized to be appropriated by sub-
9 section (a)—

10 (1) shall be available for obligation in the same
11 manner as if the funds were apportioned under
12 chapter 1 of title 23, United States Code, except
13 that the Federal share of the cost of a project or ac-
14 tivity carried out using the funds shall be 80 percent
15 (unless otherwise specified or otherwise determined
16 by the Secretary); and

17 (2) shall remain available until expended.

18 (c) ALLOCATIONS.—

19 (1) SURFACE TRANSPORTATION RESEARCH.—
20 Of the amounts made available under subsection
21 (a)(1)—

22 (A) \$27,000,000 for each of fiscal years
23 2004 through 2009 shall be available to carry
24 out advanced, high-risk, long-term research

10-4

1 under section 502(d) of title 23, United States
2 Code; and

3 (B) \$18,000,000 for fiscal years 2004 and
4 2005, \$17,000,000 for fiscal year 2006,
5 \$15,000,000 for fiscal year 2007, \$12,000,000
6 for fiscal year 2008, and \$10,00,000 for fiscal
7 year 2009 shall be available to carry out the
8 long-term pavement performance program
9 under section 502(e) of that title.

10 (2) TECHNOLOGY APPLICATION PROGRAM.—Of
11 the amounts made available under subsection (a)(1),
12 \$342,000,000 for each of fiscal years 2004 through
13 2009 shall be available to carry out section 503 of
14 title 23, United States Code.

15 (3) TRAINING AND EDUCATION.—Of the
16 amounts made available under subsection (a)(2)—

17 (A) \$12,000,000 for fiscal year 2004,
18 \$12,500,000 for fiscal year 2005, \$13,000,000
19 for fiscal year 2006, \$13,500,000 for fiscal year
20 2007, \$14,000,000 for fiscal year 2008, and
21 \$14,500,000 for fiscal year 2009 shall be avail-
22 able to carry out section 504(a) of title 23,
23 United States Code (relating to the National
24 Highway Institute);

10–5

1 (B) \$12,000,000 for fiscal year 2004,
2 \$12,500,000 for fiscal year 2005, \$13,000,000
3 for fiscal year 2006, \$13,500,000 for fiscal year
4 2007, \$14,000,000 for fiscal year 2008, and
5 \$14,500,000 for fiscal year 2009 shall be avail-
6 able to carry out section 504(b) of that title
7 (relating to local technical assistance); and

8 (C) \$3,000,000 for each of fiscal years
9 2004 through 2009 shall be available to carry
10 out section 504(c)(2) of that title (relating to
11 the Eisenhower Transportation Fellowship Pro-
12 gram).

13 (4) INTERNATIONAL HIGHWAY TRANSPOR-
14 TATION OUTREACH PROGRAM.—Of the amounts
15 made available under subsection (a)(1), \$500,000
16 for each of fiscal years 2004 through 2009 shall be
17 available to carry out section 506 of title 23, United
18 States Code.

19 (5) NEW STRATEGIC HIGHWAY RESEARCH PRO-
20 GRAM.—For each of fiscal years 2004 through 2009,
21 the Secretary shall set aside \$75,000,000 of the
22 funds authorized to be appropriated each year for
23 the Federal-aid systems (as defined in section 103 of
24 title 23, United States Code), to carry out section
25 509 of title 23, United States Code.

10–6

1 (6) COMMERCIAL VEHICLE INTELLIGENT
2 TRANSPORTATION SYSTEM INFRASTRUCTURE PRO-
3 GRAM.—Of the amounts made available under sub-
4 section (a)(4), not less than \$30,000,000 for each of
5 fiscal years 2004 through 2009 shall be available to
6 carry out section 527 of title 23, United States
7 Code.

8 (d) TRANSFERS OF FUNDS.—The Secretary may
9 transfer—

10 (1) to an amount made available under para-
11 graphs (1), (2), or (4) of subsection (c), not to ex-
12 ceed 10 percent of the amount allocated for a fiscal
13 year under any other of those paragraphs; and

14 (2) to an amount made available under sub-
15 paragraphs (A), (B), or (C) of subsection (c)(3), not
16 to exceed 10 percent of the amount allocated for a
17 fiscal year under any other of those subparagraphs.

18 **SEC. 2002. OBLIGATION CEILING.**

19 Notwithstanding any other provision of law, the total
20 of all obligations from amounts made available from the
21 Highway Trust Fund (other than the Mass Transit Ac-
22 count) by section __001(a) shall not exceed—

23 (1) \$496,000,000 for fiscal year 2004;

24 (2) \$510,000,000 for fiscal year 2005;

25 (3) \$518,000,000 for fiscal year 2006;

10-7

1 (4) \$525,000,000 for fiscal year 2007;

2 (5) \$531,000,000 for fiscal year 2008; and

3 (6) \$538,000,000 for fiscal year 2009.

4 **SEC. 2003. NOTICE.**

5 (a) NOTICE OF REPROGRAMMING.—If any funds au-
6 thorized for carrying out this title or the amendments
7 made by this title are subject to a reprogramming action
8 that requires notice to be provided to the Committee on
9 Appropriations of the House of Representatives and the
10 Committee on Appropriations of the Senate, notice of that
11 action shall be concurrently provided to the Committee on
12 Transportation and Infrastructure and the Committee on
13 Science of the House of Representatives and the Com-
14 mittee on Environment and Public Works of the Senate.

15 (b) NOTICE OF REORGANIZATION.—On or before the
16 15th day preceding the date of any major reorganization
17 of a program, project, or activity of the Department of
18 Transportation for which funds are authorized by this title
19 or the amendments made by this title, the Secretary shall
20 provide notice of the reorganization to the Committee on
21 Transportation and Infrastructure and the Committee on
22 Science of the House of Representatives and the Com-
23 mittee on Environment and Public Works of the Senate.

10–8

1 **Subtitle B—Research and**
2 **Technology**

3 **SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.**

4 (a) IN GENERAL.—Chapter 5 of title 23, United
5 States Code, is amended to read as follows:

6 **“CHAPTER 5—RESEARCH AND**
7 **TECHNOLOGY**

 “SUBCHAPTER I—SURFACE TRANSPORTATION

“Sec.

“501. Definitions.

“502. Surface transportation research.

“503. Technology application program.

“504. Training and education.

“505. State planning and research.

“506. International highway transportation outreach program.

“507. Surface transportation-environment cooperative research program.

“508. Surface transportation research technology deployment and strategic plan-
 ning.

“509. New strategic highway research program.

“510. University transportation centers.

 “SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM
 RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

“521. Finding.

“522. Goals and purposes.

“523. Definitions.

“524. General authorities and requirements.

“525. National ITS Program Plan.

“526. National ITS architecture and standards.

“527. Commercial vehicle intelligent transportation system infrastructure pro-
 gram.

“528. Research and development.

“529. Use of funds.

 “SUBCHAPTER III—MISCELLANEOUS

“531. Clean hydrogen fuel cell research for transportation.

8 **“SUBCHAPTER I—SURFACE TRANSPORTATION**

9 **“§ 501. Definitions**

10 “In this subchapter:

10-9

1 “(1) FEDERAL LABORATORY.—The term ‘Fed-
2 eral laboratory’ includes—

3 “(A) a Government-owned, Government-
4 operated laboratory; and

5 “(B) a Government-owned, contractor-op-
6 erated laboratory.

7 “(2) SAFETY.—The term ‘safety’ includes high-
8 way and traffic safety systems, research, and devel-
9 opment relating to—

10 “(A) vehicle, highway, driver, passenger,
11 bicyclist, and pedestrian characteristics;

12 “(B) accident investigations;

13 “(C) communications;

14 “(D) emergency medical care; and

15 “(E) transportation of the injured.

16 **“§ 502. Surface transportation research**

17 “(a) IN GENERAL.—

18 “(1) RESEARCH, DEVELOPMENT, AND TECH-
19 NOLOGY TRANSFER ACTIVITIES.—The Secretary may
20 carry out research, development, and technology
21 transfer activities with respect to—

22 “(A) all phases of transportation planning
23 and development (including new technologies,
24 construction, transportation systems manage-
25 ment and operations development, design, main-

10–10

1 tenance, safety, security, financing, data collec-
2 tion and analysis, demand forecasting,
3 multimodal assessment, and traffic conditions);
4 and

5 “(B) the effect of State laws on the activi-
6 ties described in subparagraph (A).

7 “(2) TESTS AND DEVELOPMENT.—The Sec-
8 retary may test, develop, or assist in testing and de-
9 veloping, any material, invention, patented article, or
10 process.

11 “(3) COOPERATION, GRANTS, AND CON-
12 TRACTS.—

13 “(A) IN GENERAL.—The Secretary may
14 carry out this section—

15 “(i) independently;

16 “(ii) in cooperation with—

17 “(I) any other Federal agency or
18 instrumentality; and

19 “(II) any Federal laboratory; or

20 “(iii) by making grants to, or entering
21 into contracts, cooperative agreements, and
22 other transactions with—

23 “(I) the National Academy of
24 Sciences;

10–11

1 “(II) the American Association of
2 State Highway and Transportation
3 Officials;

4 “(III) planning organizations;

5 “(IV) a Federal laboratory;

6 “(V) a State agency;

7 “(VI) an authority, association,
8 institution, or organization;

9 “(VII) a for-profit or nonprofit
10 corporation;

11 “(VIII) a foreign country; or

12 “(IX) any other person.

13 “(B) COMPETITION; REVIEW.—All parties
14 entering into contracts, cooperative agreements
15 or other transactions with the Secretary, or re-
16 ceiving grants, to perform research or provide
17 technical assistance under this section shall be
18 selected, to the maximum extent practicable—

19 “(i) on a competitive basis; and

20 “(ii) on the basis of the results of peer
21 review of proposals submitted to the Sec-
22 retary.

23 “(4) TECHNOLOGICAL INNOVATION.—The pro-
24 grams and activities carried out under this section
25 shall be consistent with the surface transportation

10–12

1 research and technology development strategic plan
2 developed under section 508(c).

3 “(5) FUNDS.—

4 “(A) SPECIAL ACCOUNT.—In addition to
5 other funds made available to carry out this
6 section, the Secretary shall use such funds as
7 may be deposited by any cooperating organiza-
8 tion or person in a special account of the Treas-
9 ury established for this purpose.

10 “(B) USE OF FUNDS.—The Secretary shall
11 use funds made available to carry out this sec-
12 tion to develop, administer, communicate, and
13 promote the use of products of research, devel-
14 opment, and technology transfer programs
15 under this section.

16 “(b) COLLABORATIVE RESEARCH AND DEVELOP-
17 MENT.—

18 “(1) IN GENERAL.—To encourage innovative
19 solutions to surface transportation problems and
20 stimulate the deployment of new technology, the
21 Secretary may carry out, on a cost-shared basis, col-
22 laborative research and development with—

23 “(A) non-Federal entities (including State
24 and local governments, foreign governments,
25 colleges and universities, corporations, institu-

10–13

1 tions, partnerships, sole proprietorships, and
2 trade associations that are incorporated or es-
3 tablished under the laws of any State); and

4 “(B) Federal laboratories.

5 “(2) AGREEMENTS.—In carrying out this sub-
6 section, the Secretary may enter into cooperative re-
7 search and development agreements (as defined in
8 section 12 of the Stevenson-Wydler Technology In-
9 novation Act of 1980 (15 U.S.C. 3710a)).

10 “(3) FEDERAL SHARE.—

11 “(A) IN GENERAL.—The Federal share of
12 the cost of activities carried out under a cooper-
13 ative research and development agreement en-
14 tered into under this subsection shall not exceed
15 50 percent, except that if there is substantial
16 public interest or benefit, the Secretary may ap-
17 prove a greater Federal share.

18 “(B) NON-FEDERAL SHARE.—All costs di-
19 rectly incurred by the non-Federal partners, in-
20 cluding personnel, travel, and hardware develop-
21 ment costs, shall be credited toward the non-
22 Federal share of the cost of the activities de-
23 scribed in subparagraph (A).

24 “(4) USE OF TECHNOLOGY.—The research, de-
25 velopment, or use of a technology under a coopera-

10-14

1 tive research and development agreement entered
2 into under this subsection, including the terms
3 under which the technology may be licensed and the
4 resulting royalties may be distributed, shall be sub-
5 ject to the Stevenson-Wydler Technology Innovation
6 Act of 1980 (15 U.S.C. 3701 et seq.).

7 “(5) WAIVER OF ADVERTISING REQUIRE-
8 MENTS.—Section 3709 of the Revised Statutes (41
9 U.S.C. 5) shall not apply to a contract or agreement
10 entered into under this chapter.

11 “(c) CONTENTS OF RESEARCH PROGRAM.—The Sec-
12 retary shall include as priority areas of effort within the
13 surface transportation research program—

14 “(1) the development of new technologies and
15 methods in materials, pavements, structures, design,
16 and construction, with the objectives of—

17 “(A)(i) increasing to 50 years the expected
18 life of pavements;

19 “(ii) increasing to 100 years the expected
20 life of bridges; and

21 “(iii) significantly increasing the durability
22 of other infrastructure;

23 “(B) lowering the life-cycle costs,
24 including—

25 “(i) construction costs;

10–15

1 “(ii) maintenance costs;

2 “(iii) operations costs; and

3 “(vi) user costs.

4 “(2) the development, and testing for effective-
5 ness, of nondestructive evaluation technologies for
6 civil infrastructure using existing and new tech-
7 nologies;

8 “(3) the investigation of—

9 “(A) the application of current natural
10 hazard mitigation techniques to manmade haz-
11 ards; and

12 “(B) the continuation of hazard mitigation
13 research combining manmade and natural haz-
14 ards;

15 “(4) the improvement of safety—

16 “(A) at intersections;

17 “(B) with respect to accidents involving ve-
18 hicles run off the road; and

19 “(C) on rural roads;

20 “(5) the reduction of work zone incursions and
21 improvement of work zone safety;

22 “(6) the improvement of geometric design of
23 roads for the purpose of safety;

24 “(7) the examination of data collected through
25 the national bridge inventory conducted under sec-

10–16

1 tion 144 using the national bridge inspection stand-
2 ards established under section 151, with the objec-
3 tives of determining whether—

4 “(A) the most useful types of data are
5 being collected; and

6 “(B) any improvement could be made in
7 the types of data collected and the manner in
8 which the data is collected, with respect to
9 bridges in the United States;

10 “(8) the improvement of the infrastructure in-
11 vestment needs report described in subsection (g)
12 through—

13 “(A) the study and implementation of new
14 methods of collecting better quality data, par-
15 ticularly with respect to performance, conges-
16 tion, and infrastructure conditions;

17 “(B) monitoring of the surface transpor-
18 tation system in a system-wide manner, through
19 the use of—

20 “(i) intelligent transportation system
21 technologies of traffic operations centers;
22 and

23 “(ii) other new data collection tech-
24 nologies as sources of better quality per-
25 formance data;

10–17

1 “(C) the determination of the critical
2 metrics that should be used to determine the
3 condition and performance of the surface trans-
4 portation system; and

5 “(D) the study and implementation of new
6 methods of statistical analysis and computer
7 models to improve the prediction of future in-
8 frastructure investment requirements;

9 “(9) the development of methods to improve the
10 determination of benefits from infrastructure im-
11 provements, including—

12 “(A) more accurate calculations of benefit-
13 to-cost ratios, considering benefits and impacts
14 throughout local and regional transportation
15 systems;

16 “(B) improvements in calculating life-cycle
17 costs; and

18 “(C) valuation of assets;

19 “(10) the improvement of planning processes to
20 better predict outcomes of transportation projects,
21 including the application of computer simulations in
22 the planning process to predict outcomes of planning
23 decisions;

1 “(11) the multimodal applications of Geo-
2 graphic Information Systems and remote sensing,
3 including such areas of application as—

4 “(A) planning;

5 “(B) environmental decisionmaking and
6 project delivery; and

7 “(C) freight movement;

8 “(12) the development and application of meth-
9 ods of providing revenues to the Highway Trust
10 Fund with the objective of offsetting potential reduc-
11 tions in fuel tax receipts;

12 “(13) the development of tests and methods to
13 determine the benefits and costs to communities of
14 major transportation investments and projects;

15 “(14) the conduct of extreme weather research,
16 including research to—

17 “(A) reduce contraction and expansion
18 damage;

19 “(B) reduce or repair road damage caused
20 by freezing and thawing;

21 “(C) improve deicing or snow removal
22 techniques;

23 “(D) develop better methods to reduce the
24 risk of thermal collapse;

1 “(E) improve concrete and asphalt installa-
2 tion in extreme weather conditions; and

3 “(F) make other improvements to protect
4 highway infrastructure or enhance highway
5 safety or performance; and

6 “(15) any other surface transportation research
7 topics that the Secretary determines, in accordance
8 with the strategic planning process under section
9 508, to be critical.

10 “(d) **ADVANCED, HIGH-RISK RESEARCH.**—

11 “(1) **IN GENERAL.**—The Secretary shall estab-
12 lish and carry out, in accordance with the surface
13 transportation research and technology development
14 strategic plan developed under section 508(e) and
15 research priority areas described in subsection (e),
16 an advanced research program that addresses
17 longer-term, higher-risk research with potentially
18 dramatic breakthroughs for improving the durability,
19 efficiency, environmental impact, productivity, and
20 safety (including bicycle and pedestrian safety) as-
21 pects of highway and intermodal transportation sys-
22 tems.

23 “(2) **PARTNERSHIPS.**—In carrying out the pro-
24 gram, the Secretary shall seek to develop partner-
25 ships with the public and private sectors.

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1 “(3) REPORT.—The Secretary shall include in
2 the strategic plan required under section 508(c) a
3 description of each of the projects, and the amount
4 of funds expended for each project, carried out
5 under this subsection during the fiscal year.

6 “(4) FUNDING.—Of the funds made available
7 under section 2001(a)(1) of the [Safe, Accountable,
8 Flexible, and Efficient Transportation Equity Act of
9 2003] for a fiscal year, not less than 10 percent
10 shall be used to carry out this subsection.

11 “(e) LONG-TERM PAVEMENT PERFORMANCE PRO-
12 GRAM.—

13 “(1) AUTHORITY.—The Secretary shall con-
14 tinue, through September 30, 2009, the long-term
15 pavement performance program tests, monitoring,
16 and data analysis.

17 “(2) GRANTS, COOPERATIVE AGREEMENTS, AND
18 CONTRACTS.—Under the program, the Secretary
19 shall make grants and enter into cooperative agree-
20 ments and contracts to—

21 “(A) monitor, material-test, and evaluate
22 highway test sections in existence as of the date
23 of the grant, agreement, or contract;

24 “(B) analyze the data obtained in carrying
25 out subparagraph (A); and

10–21

1 “(C) prepare products to fulfill program
2 objectives and meet future pavement technology
3 needs.

4 “(3) CONCLUSION OF PROGRAM.—

5 “(A) SUMMARY REPORT.—The Secretary
6 shall include in the strategic plan required
7 under section 508(c) a report on the initial con-
8 clusions of the long-term pavement performance
9 program that includes—

10 “(i) an analysis of any research objec-
11 tives that remain to be achieved under the
12 program;

13 “(ii) an analysis of other associated
14 longer-term expenditures under the pro-
15 gram that are in the public interest;

16 “(iii) a detailed plan regarding the
17 storage, maintenance, and user support of
18 the database, information management
19 system, and materials reference library of
20 the program;

21 “(iv) a schedule for continued imple-
22 mentation of the necessary data collection
23 and analysis and project plan under the
24 program; and

10-22

1 “(v) an estimate of the costs of car-
2 rying out each of the activities described in
3 clauses (i) through (iv) for each fiscal year
4 during which the program is carried out.

5 “(B) DEADLINE; USEFULNESS OF AD-
6 VANCES.—The Secretary shall, to the maximum
7 extent practicable—

8 “(i) ensure that the long-term pave-
9 ment performance program is concluded
10 not later than September 30, 2009; and

11 “(ii) make such allowances as are nec-
12 essary to ensure the usefulness of the tech-
13 nological advances resulting from the pro-
14 gram.

15 “(f) SEISMIC RESEARCH.—The Secretary shall—

16 “(1) in consultation and cooperation with Fed-
17 eral agencies participating in the National Earth-
18 quake Hazards Reduction Program established by
19 section 5 of the Earthquake Hazards Reduction Act
20 of 1977 (42 U.S.C. 7704), coordinate the conduct of
21 seismic research; and

22 “(2) take such actions as are necessary to en-
23 sure that the coordination of the research is con-
24 sistent with—

10-23

1 “(A) planning and coordination activities
2 of the Director of the Federal Emergency Man-
3 agement Agency under section 5(b)(1) of that
4 Act (42 U.S.C. 7704(b)(1)); and

5 “(B) the plan developed by the Director of
6 the Federal Emergency Management Agency
7 under section 8(b) of that Act (42 U.S.C.
8 7705b(b)).

9 “(g) INFRASTRUCTURE INVESTMENT NEEDS RE-
10 PORT.—

11 “(1) IN GENERAL.—Not later than July 31,
12 2004, and July 31 of every second year thereafter,
13 the Secretary shall submit to the Committee on En-
14 vironment and Public Works of the Senate and the
15 Committee on Transportation and Infrastructure of
16 the House of Representatives a report that
17 describes—

18 “(A) estimates of the future highway and
19 bridge needs of the United States; and

20 “(B) the backlog of current highway and
21 bridge needs.

22 “(2) COMPARISON WITH PRIOR REPORTS.—
23 Each report under paragraph (1) shall provide the
24 means, including all necessary information, to relate

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1 and compare the conditions and service measures
2 used in the previous biennial reports.

3 “(h) SECURITY RELATED RESEARCH AND TECH-
4 NOLOGY TRANSFER ACTIVITIES.—

5 “(1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of the [Safe, Account-
7 able, Flexible, and Efficient Transportation Equity
8 Act of 2003], the Secretary, in consultation with the
9 Secretary of Homeland Security, with key stake-
10 holder input (including State transportation depart-
11 ments) shall develop a 5-year strategic plan for re-
12 search and technology transfer and deployment ac-
13 tivities pertaining to the security aspects of highway
14 infrastructure and operations.

15 “(2) COMPONENTS OF PLAN.—The plan shall
16 include—

17 “(A) an identification of which agencies
18 are responsible for the conduct of various re-
19 search and technology transfer activities;

20 “(B) a description of the manner in which
21 those activities will be coordinated; and

22 “(C) a description of the process to be
23 used to ensure that the advances derived from
24 relevant activities supported by the Federal
25 Highway Administration are consistent with the

10–25

1 operational guidelines, policies, recommenda-
2 tions, and regulations of the Department of
3 Homeland Security; and

4 “(D) a systematic evaluation of the re-
5 search that should be conducted to address, at
6 a minimum—

7 “(i) vulnerabilities of, and measures
8 that may be taken to improve, emergency
9 response capabilities and evacuations;

10 “(ii) recommended upgrades of traffic
11 management during crises;

12 “(iii) enhanced communications
13 among the public, the military, law en-
14 forcement, fire and emergency medical
15 services, and transportation agencies;

16 “(iv) protection of critical, security-re-
17 lated infrastructure; and

18 “(v) structural reinforcement of key
19 facilities.

20 “(3) SUBMISSION.—On completion of the plan
21 under this subsection, the Secretary shall submit to
22 the Committee on Environment and Public Works of
23 the Senate and the Committee on Transportation
24 and Infrastructure of the House of
25 Representatives—

10–26

1 “(A) a copy of the plan developed under
2 paragraph (1); and

3 “(B) a copy of a memorandum of under-
4 standing specifying coordination strategies and
5 assignment of responsibilities covered by the
6 plan that is signed by the Secretary and the
7 Secretary of Homeland Security.

8 **“§ 503. Technology application program**

9 “(a) TECHNOLOGY APPLICATION INITIATIVES AND
10 PARTNERSHIPS PROGRAM.—

11 “(1) ESTABLISHMENT.—The Secretary, in con-
12 sultation with interested stakeholders, shall develop
13 and administer a national technology application ini-
14 tiatives and partnerships program.

15 “(2) PURPOSE.—The purpose of the program
16 shall be to significantly accelerate the adoption of in-
17 novative technologies by the surface transportation
18 community.

19 “(3) APPLICATION GOALS.—

20 “(A) ESTABLISHMENT.—Not later than
21 180 days after the date of enactment of the
22 **【Safe, Accountable, Flexible, and Efficient**
23 **Transportation Equity Act of 2003】**, the Sec-
24 retary, in consultation with the Surface Trans-
25 portation Research Technology Advisory Com-

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1 mittee, State transportation departments, and
2 other interested stakeholders, shall establish, as
3 part of the surface transportation research and
4 technology development strategic plan under
5 section 508(c), goals to carry out paragraph
6 (1).

7 “(B) DESIGN.—Each of the goals and the
8 program developed to achieve the goals shall be
9 designed to provide tangible benefits, with re-
10 spect to transportation systems, in the areas of
11 efficiency, safety, reliability, service life, envi-
12 ronmental protection, and sustainability.

13 “(C) STRATEGIES FOR ACHIEVEMENT.—
14 For each goal, the Secretary, in cooperation
15 with representatives of the transportation com-
16 munity, such as States, local governments, the
17 private sector, and academia, shall use domestic
18 and international technology to develop strate-
19 gies and initiatives to achieve the goal, includ-
20 ing technical assistance in deploying technology
21 and mechanisms for sharing information among
22 program participants.

23 “(4) INTEGRATION WITH OTHER PROGRAMS.—
24 The Secretary shall integrate activities carried out

10–28

1 under this subsection with the efforts of the Sec-
2 retary to—

3 “(A) disseminate the results of research
4 sponsored by the Secretary; and

5 “(B) facilitate technology transfer.

6 “(5) LEVERAGING OF FEDERAL RESOURCES.—
7 In selecting projects to be carried out under this
8 subsection, the Secretary shall give preference to
9 projects that leverage Federal funds with other sig-
10 nificant public or private resources.

11 “(6) GRANTS, COOPERATIVE AGREEMENTS, AND
12 CONTRACTS.—Under the program, the Secretary
13 may make grants and enter into cooperative agree-
14 ments and contracts to foster alliances and support
15 efforts to stimulate advances in transportation tech-
16 nology.

17 “(7) REPORTS.—The results and progress of
18 activities carried out under this section shall be pub-
19 lished as part of the annual transportation research
20 report prepared by the Secretary under section
21 508(c)(5).

22 “(8) ALLOCATION.—To the extent appropriate
23 to achieve the goals established under paragraph (3),
24 the Secretary may further allocate funds made avail-

10-29

1 able to carry out this section to States for use by
2 those States.

3 “(b) INNOVATIVE SURFACE TRANSPORTATION IN-
4 FRASTRUCTURE RESEARCH AND CONSTRUCTION PRO-
5 GRAM.—

6 “(1) IN GENERAL.—The Secretary shall estab-
7 lish and carry out a program for the application of
8 innovative material, design, and construction tech-
9 nologies in the construction, preservation, and reha-
10 bilitation of elements of surface transportation infra-
11 structure.

12 “(2) GOALS.—The goals of the program shall
13 include—

14 “(A) the development of new, cost-effec-
15 tive, and innovative materials;

16 “(B) the reduction of maintenance costs
17 and life-cycle costs of elements of infrastruc-
18 ture, including the costs of new construction,
19 replacement, and rehabilitation;

20 “(C) the development of construction tech-
21 niques to increase safety and reduce construc-
22 tion time and traffic congestion;

23 “(D) the development of engineering de-
24 sign criteria for innovative products and mate-

10–30

1 materials for use in surface transportation infra-
2 structure;

3 “(E) the development of highway bridges
4 and structures that will withstand natural dis-
5 asters and disasters caused by human activity;
6 and

7 “(F) the development of new, non-
8 destructive technologies and techniques for the
9 evaluation of elements of transportation infra-
10 structure.

11 “(3) GRANTS, COOPERATIVE AGREEMENTS, AND
12 CONTRACTS.—

13 “(A) IN GENERAL.—Under the program,
14 the Secretary shall make grants to, and enter
15 into cooperative agreements and contracts
16 with—

17 “(i) States, other Federal agencies,
18 universities and colleges, private sector en-
19 tities, and nonprofit organizations, to pay
20 the Federal share of the cost of research,
21 development, and technology transfer con-
22 cerning innovative materials and methods;
23 and

24 “(ii) States, to pay the Federal share
25 of the cost of repair, rehabilitation, re-

10–31

1 placement, and new construction of ele-
2 ments of surface transportation infrastruc-
3 ture that demonstrate the application of
4 innovative materials and methods.

5 “(B) APPLICATIONS.—

6 “(i) IN GENERAL.—To receive a grant
7 under this subsection, an entity described
8 in subparagraph (A) shall submit to the
9 Secretary an application in such form and
10 containing such information as the Sec-
11 retary may require.

12 “(ii) APPROVAL.—The Secretary shall
13 select and approve an application based on
14 whether the proposed project that is the
15 subject of the application would meet the
16 goals described in paragraph (2).

17 “(4) TECHNOLOGY AND INFORMATION TRANS-
18 FER.—The Secretary shall take such action as is
19 necessary to—

20 “(A) ensure that the information and tech-
21 nology resulting from research conducted under
22 paragraph (3) is made available to State and
23 local transportation departments and other in-
24 terested parties, as specified by the Secretary;
25 and

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1 “(B) encourage the use of the information
2 and technology.

3 “(5) FEDERAL SHARE.—The Federal share of
4 the cost of a project under this section shall be de-
5 termined by the Secretary.

6 **“§ 504. Training and education**

7 “(a) NATIONAL HIGHWAY INSTITUTE.—

8 “(1) IN GENERAL.—The Secretary shall—

9 “(A) operate, in the Federal Highway Ad-
10 ministration, a National Highway Institute (re-
11 ferred to in this subsection as the ‘Institute’);
12 and

13 “(B) administer, through the Institute, the
14 authority vested in the Secretary by this title or
15 by any other law for the development and con-
16 duct of education and training programs relat-
17 ing to highways.

18 “(2) DUTIES OF THE INSTITUTE.—In coopera-
19 tion with State transportation departments, indus-
20 tries in the United States, and national or inter-
21 national entities, the Institute shall develop and ad-
22 minister education and training programs of instruc-
23 tion for—

10–33

1 “(A) Federal Highway Administration,
2 State, and local transportation agency employ-
3 ees;

4 “(B) regional, State, and metropolitan
5 planning organizations;

6 “(C) State and local police, public safety,
7 and motor vehicle employees; and

8 “(D) United States citizens and foreign
9 nationals engaged or to be engaged in surface
10 transportation work of interest to the United
11 States.

12 “(3) COURSES.—

13 “(A) IN GENERAL.—The Institute shall—

14 “(i) develop or update existing courses
15 in asset management, including courses
16 that include such components as—

17 “(I) the determination of life-
18 cycle costs;

19 “(II) the valuation of assets;

20 “(III) benefit-to-cost ratio cal-
21 culations; and

22 “(IV) objective decisionmaking
23 processes for project selection; and

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1 “(ii) continually develop courses relat-
2 ing to the application of emerging tech-
3 nologies for—

4 “(I) transportation infrastructure
5 applications and asset management;

6 “(II) intelligent transportation
7 systems;

8 “(III) operations (including secu-
9 rity operations);

10 “(IV) the collection and archiving
11 of data; and

12 “(V) expediting the planning and
13 development of transportation
14 projects.

15 “(B) ADDITIONAL COURSES.—In addition
16 to the courses developed under subparagraph
17 (A), the Institute, in consultation with State
18 transportation departments and the American
19 Association of State Highway and Transpor-
20 tation Officials, may develop courses relating to
21 technology, methods, techniques, engineering,
22 construction, safety, maintenance, environ-
23 mental mitigation and compliance, regulations,
24 management, inspection, and finance.

10–35

1 “(C) REVISION OF COURSES OFFERED.—

2 The Institute shall periodically—

3 “(i) review the course inventory of the

4 Institute; and

5 “(ii) revise or cease to offer courses

6 based on course content, applicability, and

7 need.

8 “(4) ELIGIBILITY; FEDERAL SHARE.—The

9 funds apportioned to a State under section

10 104(b)(3) for the surface transportation program

11 shall be expended by the State transportation de-

12 partment for the payment of not to exceed 80 per-

13 cent of the cost of tuition and direct educational ex-

14 penses (excluding salaries) in connection with the

15 education and training of employees of State and

16 local transportation agencies in accordance with this

17 subsection.

18 “(5) FEDERAL RESPONSIBILITY.—

19 “(A) IN GENERAL.—Except as provided in

20 subparagraph (B), education and training of

21 employees of Federal, State, and local transpor-

22 tation (including highway) agencies authorized

23 under this subsection may be provided—

24 “(i) by the Secretary, at no cost to

25 the States and local governments, if the

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1 Secretary determines that provision at no
2 cost is in the public interest; or

3 “(ii) by the State, through grants, co-
4 operative agreements, and contracts with
5 public and private agencies, institutions,
6 individuals, and the Institute.

7 “(B) PAYMENT OF FULL COST BY PRIVATE
8 PERSONS.—Private agencies, international or
9 foreign entities, and individuals shall pay the
10 full cost of any education and training (includ-
11 ing the cost of course development) received by
12 the agencies, entities, and individuals, unless
13 the Secretary determines that payment of a
14 lesser amount of the cost is of critical impor-
15 tance to the public interest.

16 “(6) TRAINING FELLOWSHIPS; COOPERATION.—
17 The Institute may—

18 “(A) engage in training activities author-
19 ized under this subsection, including the grant-
20 ing of training fellowships; and

21 “(B) exercise the authority of the Institute
22 independently or in cooperation with any—

23 “(i) other Federal or State agency;

24 “(ii) association, authority, institu-
25 tion, or organization;

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1 “(iii) for-profit or nonprofit corpora-
2 tion;

3 “(iv) national or international entity;

4 “(v) foreign country; or

5 “(vi) person.

6 “(7) COLLECTION OF FEES.—

7 “(A) IN GENERAL.—In accordance with
8 this subsection, the Institute may assess and
9 collect fees to defray the costs of the Institute
10 in developing or administering education and
11 training programs under this subsection.

12 “(B) PERSONS SUBJECT TO FEES.—Fees
13 may be assessed and collected under this sub-
14 section only with respect to—

15 “(i) persons and entities for whom
16 education or training programs are devel-
17 oped or administered under this sub-
18 section; and

19 “(ii) persons and entities to whom
20 education or training is provided under
21 this subsection.

22 “(C) AMOUNT OF FEES.—The fees as-
23 sessed and collected under this subsection shall
24 be established in a manner that ensures that
25 the liability of any person or entity for a fee is

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1 reasonably based on the proportion of the costs
2 referred to in subparagraph (A) that relate to
3 the person or entity.

4 “(D) USE.—All fees collected under this
5 subsection shall be used, without further appro-
6 priation, to defray costs associated with the de-
7 velopment or administration of education and
8 training programs authorized under this sub-
9 section.

10 “(8) RELATION TO FEES.—The funds made
11 available to carry out this subsection may be com-
12 bined with or held separate from the fees collected
13 under—

14 “(A) paragraph (7);

15 “(B) memoranda of understanding;

16 “(C) regional compacts; and

17 “(D) other similar agreements.

18 “(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

19 “(1) AUTHORITY.—The Secretary shall carry
20 out a local technical assistance program that will
21 provide access to surface transportation technology
22 to—

23 “(A) highway and transportation agencies
24 in urbanized areas;

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1 “(B) highway and transportation agencies
2 in rural areas;

3 “(C) contractors that perform work for the
4 agencies; and

5 “(D) infrastructure security.

6 “(2) GRANTS, COOPERATIVE AGREEMENTS, AND
7 CONTRACTS.—The Secretary may make grants and
8 enter into cooperative agreements and contracts to
9 provide education and training, technical assistance,
10 and related support services to—

11 “(A) assist rural, local transportation
12 agencies and tribal governments, and the con-
13 sultants and construction personnel working for
14 the agencies and governments, to—

15 “(i) develop and expand expertise in
16 road and transportation areas (including
17 pavement, bridge, concrete structures,
18 intermodal connections, safety manage-
19 ment systems, intelligent transportation
20 systems, incident response, operations, and
21 traffic safety countermeasures);

22 “(ii) improve roads and bridges;

23 “(iii) enhance—

24 “(I) programs for the movement
25 of passengers and freight; and

10–40

1 “(II) intergovernmental transpor-
2 tation planning and project selection;
3 and

4 “(iv) deal effectively with special
5 transportation-related problems by pre-
6 paring and providing training packages,
7 manuals, guidelines, and technical resource
8 materials;

9 “(B) develop technical assistance for tour-
10 ism and recreational travel;

11 “(C) identify, package, and deliver trans-
12 portation technology and traffic safety informa-
13 tion to local jurisdictions to assist urban trans-
14 portation agencies in developing and expanding
15 their ability to deal effectively with transpor-
16 tation-related problems (particularly the pro-
17 motion of regional cooperation);

18 “(D) operate, in cooperation with State
19 transportation departments and universities—

20 “(i) local technical assistance program
21 centers designated to provide transpor-
22 tation technology transfer services to rural
23 areas and to urbanized areas; and

24 “(ii) local technical assistance pro-
25 gram centers designated to provide trans-

1 portation technical assistance to tribal gov-
2 ernments; and

3 “(E) allow local transportation agencies
4 and tribal governments, in cooperation with the
5 private sector, to enhance new technology im-
6 plementation.

7 “(c) RESEARCH FELLOWSHIPS.—

8 “(1) GENERAL AUTHORITY.—The Secretary,
9 acting independently or in cooperation with other
10 Federal agencies and instrumentalities, may make
11 grants for research fellowships for any purpose for
12 which research is authorized by this chapter.

13 “(2) DWIGHT DAVID EISENHOWER TRANSPOR-
14 TATION FELLOWSHIP PROGRAM.—The Secretary
15 shall establish and implement a transportation re-
16 search fellowship program, to be known as the
17 ‘Dwight David Eisenhower Transportation Fellow-
18 ship Program’, for the purpose of attracting quali-
19 fied students to the field of transportation.

20 **“§ 505. State planning and research**

21 “(a) IN GENERAL.—Two percent of the sums appor-
22 tioned to a State for fiscal year 2004 and each fiscal year
23 thereafter under sections 104 (other than subsections (f)
24 and (h)) and 144 shall be available for expenditure by the
25 State, in consultation with the Secretary, only for—

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1 “(1) the conduct of engineering and economic
2 surveys and investigations;

3 “(2) the planning of—

4 “(A) future highway programs and local
5 public transportation systems; and

6 “(B) the financing of those programs and
7 systems, including metropolitan and statewide
8 planning under sections 134 and 135;

9 “(3) the development and implementation of
10 management systems under section 303;

11 “(4) the conduct of studies on—

12 “(A) the economy, safety, and convenience
13 of surface transportation systems; and

14 “(B) the desirable regulation and equitable
15 taxation of those systems;

16 “(5) research, development, and technology
17 transfer activities necessary in connection with the
18 planning, design, construction, management, and
19 maintenance of highway, public transportation, and
20 intermodal transportation systems;

21 “(6) the conduct of studies, research, and train-
22 ing relating to the engineering standards and con-
23 struction materials for surface transportation sys-
24 tems described in paragraph (5) (including the eval-
25 uation and accreditation of inspection and testing

1 and the regulation of and charging for the use of the
2 standards and materials); and

3 “(7) the conduct of activities relating to the
4 planning of real-time monitoring elements.

5 “(b) MINIMUM EXPENDITURES ON RESEARCH, DE-
6 VELOPMENT, AND TECHNOLOGY TRANSFER ACTIVI-
7 TIES.—

8 “(1) IN GENERAL.—Subject to paragraph (2),
9 not less than 25 percent of the funds subject to sub-
10 section (a) that are apportioned to a State for a fis-
11 cal year shall be expended by the State for research,
12 development, and technology transfer activities
13 that—

14 “(A) are described in subsection (a); and

15 “(B) relate to highway, public transpor-
16 tation, and intermodal transportation systems.

17 “(2) WAIVERS.—The Secretary may waive the
18 application of paragraph (1) with respect to a State
19 for a fiscal year if—

20 “(A) the State certifies to the Secretary
21 for the fiscal year that total expenditures by the
22 State for transportation planning under sec-
23 tions 134 and 135 will exceed 75 percent of the
24 funds described in paragraph (1); and

1 “(B) the Secretary accepts the certification
2 of the State.

3 “(3) NONAPPLICABILITY OF ASSESSMENT.—
4 Funds expended under paragraph (1) shall not be
5 considered to be part of the extramural budget of
6 the agency for the purpose of section 9 of the Small
7 Business Act (15 U.S.C. 638).

8 “(c) FEDERAL SHARE.—The Federal share of the
9 cost of a project carried out using funds subject to sub-
10 section (a) shall be 80 percent unless the Secretary deter-
11 mines that the interests of the Federal-aid highway pro-
12 gram would be best served by decreasing or eliminating
13 the non-Federal share.

14 “(d) ADMINISTRATION OF SUMS.—Funds subject to
15 subsection (a) shall be—

16 “(1) combined and administered by the Sec-
17 retary as a single fund; and

18 “(2) available for obligation for the period de-
19 scribed in section 118(b)(2).

20 “(e) ELIGIBLE USE OF STATE PLANNING AND RE-
21 SEARCH FUNDS.—A State, in coordination with the Sec-
22 retary, may obligate funds made available to carry out this
23 section for any purpose authorized under section 506(a).

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1 **“§ 506. International highway transportation out-**
2 **reach program**

3 “(a) ESTABLISHMENT.—The Secretary may establish
4 an international highway transportation outreach
5 program—

6 “(1) to inform the United States highway com-
7 munity of technological innovations in foreign coun-
8 tries that could significantly improve highway trans-
9 portation in the United States;

10 “(2) to promote United States highway trans-
11 portation expertise, goods, and services in foreign
12 countries; and

13 “(3) to increase transfers of United States
14 highway transportation technology to foreign coun-
15 tries.

16 “(b) ACTIVITIES.—Activities carried out under the
17 program may include—

18 “(1) the development, monitoring, assessment,
19 and dissemination in the United States of informa-
20 tion about highway transportation innovations in
21 foreign countries that could significantly improve
22 highway transportation in the United States;

23 “(2) research, development, demonstration,
24 training, and other forms of technology transfer and
25 exchange;

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

6 “(4) the offering of technical services of the
7 Federal Highway Administration that cannot be
8 readily obtained from private sector firms in the
9 United States for incorporation into the proposals of
10 those firms undertaking highway transportation
11 projects outside the United States, if the costs of the
12 technical services will be recovered under the terms
13 of the project;

14 “(5) the conduct of studies to assess the need
15 for, or feasibility of, highway transportation im-
16 provements in foreign countries; and

17 “(6) the gathering and dissemination of infor-
18 mation on foreign transportation markets and indus-
19 tries.

20 “(c) COOPERATION.—The Secretary may carry out
21 this section in cooperation with any appropriate—

22 “(1) Federal, State, or local agency;

23 “(2) authority, association, institution, or orga-
24 nization;

25 “(3) for-profit or nonprofit corporation;

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1 “(4) national or international entity;

2 “(5) foreign country; or

3 “(6) person.

4 “(d) FUNDS.—

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

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

15 “(A) promotional materials;

16 “(B) travel;

17 “(C) reception and representation ex-
18 penses; and

19 “(D) salaries and benefits.

20 “(3) REIMBURSEMENTS FOR SALARIES AND
21 BENEFITS.—Reimbursements for salaries and bene-
22 fits of Department of Transportation employees pro-
23 viding services under this section shall be credited to
24 the account.

1 systems to facilitate analysis of potential alter-
2 natives;

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

6 “(5) to refine, through the conduct of work-
7 shops, symposia, and panels, and in consultation
8 with stakeholders (including the Department of En-
9 ergy, the Environmental Protection Agency, and
10 other appropriate Federal and State agencies and
11 associations) the scope and research emphases of the
12 program.

13 “(c) PROGRAM ADMINISTRATION.—The National Re-
14 search Council shall—

15 “(1) administer the program established under
16 this section; and

17 “(2) ensure, to the maximum extent prac-
18 ticable, that—

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

22 “(i) on the basis of merit of each sub-
23 mitted proposal; and

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1 “(ii) through the use of open solicita-
2 tions and selection by a panel of appro-
3 priate experts;

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

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

11 “(D) there is no duplication of research ef-
12 fort between the program established under this
13 section and the new strategic highway research
14 program established under section 509.

15 “(d) NATIONAL ACADEMY OF SCIENCES.—The Sec-
16 retary may make grants to, and enter into cooperative
17 agreements with, the National Academy of Sciences to
18 carry out such activities relating to the research, tech-
19 nology, and technology transfer activities described in sub-
20 sections (b) and (c) as the Secretary determines to be ap-
21 propriate.

22 **“§ 508. Surface transportation research technology**
23 **deployment and strategic planning**

24 “(a) PLANNING.—

25 “(1) ESTABLISHMENT.—The Secretary shall—

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1 “(A) establish, in accordance with section
2 306 of title 5, a strategic planning process
3 that—

4 “(i) enhances effective implementation
5 of this section through the establishment
6 in accordance with paragraph (2) of the
7 Surface Transportation Research Tech-
8 nology Advisory Committee; and

9 “(ii) focuses on surface transportation
10 research funded through paragraphs (1),
11 (2), (4), and (5) of section 2001(a) of the
12 **【Safe, Accountable, Flexible, and Efficient**
13 **Transportation Equity Act of 2003】**, tak-
14 ing into consideration national surface
15 transportation system needs and inter-
16 modality requirements;

17 “(B) coordinate Federal surface transpor-
18 tation research, technology development, and
19 deployment activities;

20 “(C) at such intervals as are appropriate
21 and practicable, measure the results of those
22 activities and the ways in which the activities
23 affect the performance of the surface transpor-
24 tation systems of the United States; and

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1 “(D) ensure, to the maximum extent prac-
2 ticable, that planning and reporting activities
3 carried out under this section are coordinated
4 with all other surface transportation planning
5 and reporting requirements.

6 “(2) SURFACE TRANSPORTATION RESEARCH
7 TECHNOLOGY ADVISORY COMMITTEE.—

8 “(A) ESTABLISHMENT.—Not later than 90
9 days after the date of enactment of the [Safe,
10 Accountable, Flexible, and Efficient Transpor-
11 tation Equity Act of 2003], the Secretary shall
12 establish a committee to be known as the ‘Sur-
13 face Transportation Research Technology Advi-
14 sory Committee’ (referred to in this section as
15 the ‘Committee’).

16 “(B) MEMBERSHIP.—The Committee shall
17 be composed of 12 members appointed by the
18 Secretary—

19 “(i) each of which shall have expertise
20 in a particular area relating to Federal
21 surface transportation programs,
22 including—

23 “(I) safety;

24 “(II) operations;

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1 “(III) infrastructure (including
2 pavements and structures);

3 “(IV) planning and environment;

4 “(V) policy; and

5 “(VI) asset management; and

6 “(ii) of which—

7 “(I) 3 members shall be individ-
8 uals representing the Federal Govern-
9 ment;

10 “(II) 3 members—

11 “(aa) shall be exceptionally
12 qualified to serve on the Com-
13 mittee, as determined by the Sec-
14 retary, based on education, train-
15 ing, and experience; and

16 “(bb) shall not be officers or
17 employees of the United States;

18 “(III) 3 members—

19 “(aa) shall represent the
20 transportation industry (includ-
21 ing the pavement industry); and

22 “(bb) shall not be officers or
23 employees of the United States;
24 and

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1 “(IV) 3 members shall represent
2 State transportation departments
3 from 3 different geographical regions
4 of the United States.

5 “(C) MEETINGS.—The advisory sub-
6 committees shall meet on a regular basis, but
7 not less than twice each year.

8 “(D) DUTIES.—The Committee shall pro-
9 vide to the Secretary, on a continuous basis, ad-
10 vice and guidance relating to—

11 “(i) the determination of surface
12 transportation research priorities;

13 “(ii) the improvement of the research
14 planning and implementation process;

15 “(iii) the design and selection of re-
16 search projects;

17 “(iv) the review of research results;

18 “(v) the planning and implementation
19 of technology transfer activities and

20 “(vi) the formulation of the surface
21 transportation research and technology de-
22 ployment and deployment strategic plan re-
23 quired under subsection (c).

24 “(E) AUTHORIZATION OF APPROPRIA-
25 TIONS.—There is authorized to be appropriated

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1 from the Highway Trust Fund (other than the
2 Mass Transit Account) to carry out this para-
3 graph \$200,000 for each fiscal year.

4 “(b) IMPLEMENTATION.—The Secretary shall—

5 “(1) provide for the integrated planning, coordi-
6 nation, and consultation among the operating ad-
7 ministrations of the Department of Transportation,
8 all other Federal agencies with responsibility for sur-
9 face transportation research and technology develop-
10 ment, State and local governments, institutions of
11 higher education, industry, and other private and
12 public sector organizations engaged in surface trans-
13 portation-related research and development activi-
14 ties; and

15 “(2) ensure that the surface transportation re-
16 search and technology development programs of the
17 Department do not duplicate other Federal, State,
18 or private sector research and development pro-
19 grams.

20 “(c) SURFACE TRANSPORTATION RESEARCH AND
21 TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—

22 “(1) IN GENERAL.—After receiving, and based
23 on, extensive consultation and input from stake-
24 holders representing the transportation community
25 and the Surface Transportation Research Advisory

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1 Committee, the Secretary shall, not later than 1
2 year after the date of enactment of the **【Safe, Ac-**
3 **countable, Flexible, and Efficient Transportation**
4 **Equity Act of 2003】**, complete, and shall periodi-
5 cally update thereafter, a strategic plan for each of
6 the core surface transportation research areas,
7 including—

8 “(A) safety;

9 “(B) operations;

10 “(C) infrastructure (including pavements
11 and structures);

12 “(D) planning and environment; and

13 “(E) policy.

14 “(2) COMPONENTS.—The strategic plan shall
15 specify—

16 “(A) surface transportation research objec-
17 tives and priorities;

18 “(B) specific highway research projects to
19 be conducted;

20 “(C) recommended technology transfer ac-
21 tivities to promote the deployment of advances
22 resulting from the highway research conducted;
23 and

24 “(D) short- and long-term technology de-
25 velopment and deployment activities.

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1 “(3) REVIEW AND SUBMISSION OF FINDINGS.—

2 The Secretary shall enter into a contract with the
3 Transportation Research Board of the National
4 Academy of Sciences, on behalf of the Research and
5 Technology Coordinating Committee of the National
6 Research Council, under which—

7 “(A) the Transportation Research Board
8 shall—

9 “(i) review the research and tech-
10 nology planning and implementation proc-
11 ess used by Federal Highway Administra-
12 tion; and

13 “(ii) evaluate each of the strategic
14 plans prepared under this subsection—

15 “(I) to ensure that sufficient
16 stakeholder input is being solicited
17 and considered throughout the prepa-
18 ration process; and

19 “(II) to offer recommendations
20 relevant to research priorities, project
21 selection, and deployment strategies;
22 and

23 “(B) the Secretary shall ensure that the
24 Research and Technology Coordinating Com-
25 mittee, in a timely manner, informs the Com-

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1 mittee on Environment and Public Works of the
2 Senate and the Committee on Transportation
3 and Infrastructure of the House of Representa-
4 tives of the findings of the review and evalua-
5 tion under subparagraph (A).

6 “(4) RESPONSES OF SECRETARY.—Not later
7 than 60 days after the date of completion of the
8 strategic plan under this subsection, the Secretary
9 shall submit to the Committee on Environment and
10 Public Works of the Senate and the Committee on
11 Transportation and Infrastructure of the House of
12 Representatives written responses to each of the rec-
13 ommendations of the Research and Technology Co-
14 ordinating Committee under paragraph
15 (3)(A)(ii)(II).

16 “(d) CONSISTENCY WITH GOVERNMENT PERFORM-
17 ANCE AND RESULTS ACT OF 1993.—The plans and re-
18 ports developed under this section shall be consistent with
19 and incorporated as part of the plans developed under sec-
20 tion 306 of title 5 and sections 1115 and 1116 of title
21 31.

22 “§ 509. **New strategic highway research program**

23 “(a) IN GENERAL.—The National Research Council
24 shall establish and carry out, through fiscal year 2009,
25 a new strategic highway research program.

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1 “(b) BASIS; PRIORITIES.—With respect to the pro-
2 gram established under subsection (a)—

3 “(1) the program shall be based on—

4 “(A) National Research Council Special
5 Report No. 260, entitled ‘Strategic Highway
6 Research’; and

7 “(B) the results of the detailed planning
8 work subsequently carried out to scope the re-
9 search areas through National Cooperative Re-
10 search Program Project 20–58.

11 “(2) the scope and research priorities of the
12 program shall—

13 “(A) be refined through stakeholder input
14 in the form of workshops, symposia, and panels;
15 and

16 “(B) include an examination of—

17 “(i) the roles of highway infrastruc-
18 ture, drivers, and vehicles in fatalities on
19 public roads;

20 “(ii) high-risk areas and activities as-
21 sociated with the greatest numbers of high-
22 way fatalities;

23 “(iii) the roles of various levels of gov-
24 ernment agencies and non-governmental
25 organizations in reducing highway fatali-

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1 ties (including recommendations for meth-
2 ods of strengthening highway safety part-
3 nerships);

4 “(iv) measures that may save the
5 greatest number of lives in the short- and
6 long-term;

7 “(v) renewal of aging infrastructure
8 with minimum impact on users of facilities;

9 “(vi) driving behavior and likely crash
10 causal factors to support improved coun-
11 termeasures;

12 “(vii) reduction in congestion due to
13 nonrecurring congestion;

14 “(viii) planning and designing of new
15 road capacity to meet mobility, economic,
16 environmental, and community needs;

17 “(3) the program shall consider, at a minimum,
18 the results of studies relating to the implementation
19 of the Strategic Highway Safety Plan prepared by
20 the American Association of State Highway and
21 Transportation Officials; and

22 “(4) the research results of the program, ex-
23 pressed in terms of technologies, methodologies, and
24 other appropriate categorizations, shall be dissemi-

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1 nated to practicing engineers as soon as practicable
2 for their use.

3 “(c) PROGRAM ADMINISTRATION.—In carrying out
4 the program under this section, the National Research
5 Council shall ensure, to the maximum extent practicable,
6 that—

7 “(1) the best projects and researchers are se-
8 lected to conduct research for the program and pri-
9 orities described in subsection (b)—

10 “(A) on the basis of the merit of each sub-
11 mitted proposal; and

12 “(B) through the use of open solicitations
13 and selection by a panel of appropriate experts;

14 “(2) the National Research Council acquires a
15 qualified, permanent core staff with the ability and
16 expertise to manage a large research program and
17 multiyear budget;

18 “(3) the stakeholders are involved in the gov-
19 ernance of the program, at the executive, overall
20 program, and technical levels, through the use of ex-
21 pert panels and committees; and

22 “(4) there is no duplication of research effort
23 between the program established under this section
24 and the surface transportation-environment coopera-

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1 tive research program established under section 507
2 or any other research effort of the Department.

3 “(d) NATIONAL ACADEMY OF SCIENCES.—The Sec-
4 retary may make grants to, and enter into cooperative
5 agreements with, the National Academy of Sciences to
6 carry out such activities relating to research, technology,
7 and technology transfer described in subsections (b) and
8 (c) as the Secretary determines to be appropriate.

9 “(e) REPORT ON IMPLEMENTATION OF RESULTS.—

10 “(1) IN GENERAL.—Not later than October 1,
11 2007, the Secretary shall enter into a contract with
12 the Transportation Research Board of the National
13 Academy of Sciences under which the Transpor-
14 tation Research Board shall complete a report on
15 the strategies and administrative structure to be
16 used for implementation of the results of new stra-
17 tegic highway research program.

18 “(2) COMPONENTS.—The report under para-
19 graph (1) shall include, with respect to the new stra-
20 tegic highway research program—

21 “(A) an identification of the most prom-
22 ising results of research under the program (in-
23 cluding the persons most likely to use the re-
24 sults);

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1 “(B) a discussion of potential incentives
2 for, impediments to, and methods of, imple-
3 menting those results;

4 “(C) an estimate of costs that would be in-
5 curred in expediting implementation of those re-
6 sults; and

7 “(D) recommendations for the way in
8 which implementation of the results of the pro-
9 gram under this section should be conducted,
10 coordinated, and supported in future years, in-
11 cluding a discussion of the administrative struc-
12 ture and organization best suited to carry out
13 those responsibilities.

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

17 “(A) the American Association of State
18 highway Officials;

19 “(B) the Federal Highway Administration;
20 and

21 “(C) the Surface Transportation Research
22 Technology Advisory Committee.

23 “(4) SUBMISSION.—Not later than February 1,
24 2009, the Secretary shall submit to the Committee
25 on Environment and Public Works of the Senate

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1 and the Committee on Transportation and Infra-
2 structure of the House of Representatives the report
3 under this subsection.

4 **“§ 510. University transportation centers**

5 “(a) CENTERS.—

6 “(1) IN GENERAL.—During fiscal year 2004,
7 the Secretary shall provide grants to 40 nonprofit
8 institutions of higher learning (or consortia of insti-
9 tutions of higher learning) to establish centers to ad-
10 dress transportation design, management, research,
11 development, and technology matters, especially the
12 education and training of greater numbers of indi-
13 viduals to enter into the professional field of trans-
14 portation.

15 “(2) DISTRIBUTION OF CENTERS.—Not more
16 than 1 university transportation center (or lead uni-
17 versity in a consortia of institutions of higher learn-
18 ing), other than a center or university selected
19 through a competitive process, may be located in any
20 State.

21 “(3) IDENTIFICATION OF CENTERS.—The uni-
22 versity transportation centers established under this
23 section shall—

24 “(A) comply with applicable requirements
25 under subsection (c); and

1 “(B) be located at the institutions of high-
2 er learning specified in paragraph (4).

3 “(4) IDENTIFICATION OF GROUPS.—For the
4 purpose of making grants under this subsection, the
5 following grants are identified:

6 “(A) GROUP A.—Group A shall consist of
7 the 10 regional centers selected under sub-
8 section (b).

9 “(B) GROUP B.—Group B shall consist of
10 the following:

11 “(i) [_____].

12 “(ii) [_____].

13 “(iii) [_____].

14 “(iv) [_____].

15 “(v) [_____].

16 “(vi) [_____].

17 “(vii) [_____].

18 “(viii) [_____].

19 “(ix) [_____].

20 “(x) [_____].

21 “(xi) [_____].

22 “(C) GROUP C.—Group C shall consist of
23 the following:

24 “(i) [_____].

25 “(ii) [_____].

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1 “(iii) [_____].

2 “(iv) [_____].

3 “(v) [_____].

4 “(vi) [_____].

5 “(vii) [_____].

6 “(viii) [_____].

7 “(ix) [_____].

8 “(x) [_____].

9 “(xi) [_____].

10 “(D) GROUP D.—Group D shall consist of

11 the following:

12 “(i) [_____].

13 “(ii) [_____].

14 “(iii) [_____].

15 “(iv) [_____].

16 “(v) [_____].

17 “(vi) [_____].

18 “(vii) [_____].

19 “(viii) [_____].

20 “(b) REGIONAL CENTERS.—

21 “(1) IN GENERAL.—Not later than September

22 30, 2004, the Secretary shall provide to nonprofit

23 institutions of higher learning (or consortia of insti-

24 tutions of higher learning) grants to be used during

25 the period of fiscal years 2005 through 2009 to es-

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1 establish and operate 1 university transportation cen-
2 ter in each of the 10 Federal regions that comprise
3 the Standard Federal Regional Boundary System.

4 “(2) SELECTION OF REGIONAL CENTERS.—

5 “(A) PROPOSALS.—In order to be eligible
6 to receive a grant under this subsection, an in-
7 stitution described in paragraph (1) shall sub-
8 mit to the Secretary a proposal, in response to
9 any request for proposals that shall be made by
10 the Secretary, that is in such form and contains
11 such information as the Secretary shall pre-
12 scribe.

13 “(B) ELIGIBILITY.—Any institution of
14 higher learning (or consortium of institutions of
15 higher learning) that meets the criteria de-
16 scribed in subsection (c) (including any institu-
17 tion identified in subsection (a)(4)) may apply
18 for a grant under this subsection.

19 “(C) SELECTION CRITERIA.—The Sec-
20 retary shall select each recipient of a grant
21 under this subsection through a competitive
22 process on the basis of—

23 “(i) the location of the center within
24 the Federal region to be served;

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1 “(ii) the demonstrated research capa-
2 bilities and extension resources available to
3 the recipient to carry out this section;

4 “(iii) the capability of the recipient to
5 provide leadership in making national and
6 regional contributions to the solution of
7 immediate and long-range transportation
8 problems;

9 “(iv) the demonstrated ability of the
10 recipient to disseminate results of trans-
11 portation research and education programs
12 through a statewide or regionwide con-
13 tinuing education program; and

14 “(v) the strategic plan that the recipi-
15 ent proposes to carry out using funds from
16 the grant.

17 “(D) SELECTION PROCESS.—In selecting
18 the recipients of grants under this subsection,
19 the Secretary shall consult with, and consider
20 the advice of—

21 “(i) the Research and Special Pro-
22 grams Administration;

23 “(ii) the Federal Highway Adminis-
24 tration; and

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1 “(iii) the Federal Transit Administra-
2 tion.

3 “(c) CENTER REQUIREMENTS.—

4 “(1) IN GENERAL.—With respect to a univer-
5 sity transportation center established under sub-
6 section (a) or (b), the institution or consortium that
7 receives a grant to establish the center—

8 “(A) shall annually contribute at least
9 \$250,000 to the operation and maintenance of
10 the center, except that payment by the institu-
11 tion or consortium of the salary required for
12 transportation-related faculty and staff for a
13 period greater than 90 days may not be counted
14 against that contribution;

15 “(B) shall have established, as of the date
16 of receipt of the grant, undergraduate or grad-
17 uate programs in—

18 “(i) civil engineering;

19 “(ii) transportation engineering;

20 “(iii) transportation systems manage-
21 ment and operations; or

22 “(iv) any other field significantly re-
23 lated to surface transportation systems, as
24 determined by the Secretary; and

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1 “(C) not later than 120 days after the date
2 on which the institution or consortium receives
3 notice of selection as a site for the establish-
4 ment of a university transportation center
5 under this section, shall submit to the Secretary
6 a 6-year program plan for the university trans-
7 portation center that includes, with respect to
8 the center—

9 “(i) a description of the purposes of
10 programs to be conducted by the center;

11 “(ii) a description of the under-
12 graduate and graduate transportation edu-
13 cation efforts to be carried out by the cen-
14 ter;

15 “(iii) a description of the nature and
16 scope of research to be conducted by the
17 center;

18 “(iv) a list of personnel, including the
19 roles and responsibilities of those personnel
20 within the center; and

21 “(v) a detailed budget, including the
22 amount of contributions by the institution
23 or consortium to the center; and

24 “(D) shall establish an advisory committee
25 that—

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1 “(i) is composed of a representative
2 from each of the State transportation de-
3 partment of the State in which the institu-
4 tion or consortium is located, the Depart-
5 ment of Transportation, and the institu-
6 tion or consortia, as appointed by those re-
7 spective entities;

8 “(ii) in accordance with paragraph
9 (2), shall review and approve or disapprove
10 the plan of the institution or consortium
11 under subparagraph (C); and

12 “(iii) shall, to the maximum extent
13 practicable, ensure that the proposed re-
14 search to be carried out by the university
15 transportation center will contribute to the
16 national highway research and technology
17 agenda, as periodically updated by the Sec-
18 retary, in consultation with stakeholders
19 representing the highway community.

20 “(2) PEER REVIEW.—

21 “(A) IN GENERAL.—The Secretary shall
22 require peer review for each report on research
23 carried out using funds made available for this
24 section.

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1 “(B) PURPOSES OF PEER REVIEW.—Peer
2 review of a report under this section shall be
3 carried out to evaluate—

4 “(i) the relevance of the research de-
5 scribed in the report with respect to the
6 strategic plan under, and the goals of, this
7 section;

8 “(ii) the research covered by the re-
9 port, and to recommend modifications to
10 individual project plans;

11 “(iii) the results of the research be-
12 fore publication of those results; and

13 “(iv) the overall outcomes of the re-
14 search.

15 “(C) INTERNET AVAILABILITY.—Each re-
16 port under this section that is received by the
17 Secretary shall be published—

18 “(i) by the Secretary, on the Internet
19 website of the Department of Transpor-
20 tation; and

21 “(ii) by the University Transportation
22 Center.

23 “(3) APPROVAL OF PLANS—A plan of an insti-
24 tution or consortium described in paragraph (1)(C)
25 shall not be submitted to the Secretary until such

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1 time as the advisory committee established under
2 paragraph (1)(D) reviews and approves the plan.

3 “(4) FAILURE TO COMPLY.—If a recipient of a
4 grant under this subsection fails to submit a pro-
5 gram plan acceptable to the Secretary and in accord-
6 ance with paragraph (1)(C)—

7 “(A) the recipient shall forfeit the grant
8 and the selection of the recipient as a site for
9 the establishment of a university transportation
10 center; and

11 “(B) the Secretary shall select a replace-
12 ment recipient for the forfeited grant.

13 “(5) APPLICABILITY.—This subsection does not
14 apply to any research funds received in accordance
15 with a competitive contract offered and entered into
16 by the Federal Highway Administration.

17 “(d) OBJECTIVES.—Each university transportation
18 center established under subsection (a) or (b) shall carry
19 out—

20 “(1) undergraduate or graduate education pro-
21 grams that include—

22 “(A) multidisciplinary coursework; and

23 “(B) opportunities for students to partici-
24 pate in research;

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1 “(2) basic and applied research, the results and
2 products of which shall be judged by peers or other
3 experts in the field so as to advance the body of
4 knowledge in transportation; and

5 “(3) an ongoing program of technology transfer
6 that makes research results available to potential
7 users in such form as will enable the results to be
8 implemented, used, or otherwise applied.

9 “(e) MAINTENANCE OF EFFORT.—To be eligible to
10 receive a grant under this section, an applicant shall—

11 “(1) enter into an agreement with the Secretary
12 to ensure that the applicant will maintain total ex-
13 penditures from all other sources to establish and
14 operate a university transportation center and re-
15 lated educational and research activities at a level
16 that is at least equal to the average level of those
17 expenditures during the 2 fiscal years before the
18 date on which the grant is provided;

19 “(2) provide the annual institutional contribu-
20 tion required under subsection (c)(1); and

21 “(3) submit to the Secretary, in a timely man-
22 ner, for use by the Secretary in the preparation of
23 the annual research report under section 508(e)(5)
24 of title 23, an annual report on the projects and ac-
25 tivities of the university transportation center for

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1 which funds are made available under section 2001
2 of the **【Safe, Accountable, Flexible, and Efficient**
3 **Transportation Equity Act of 2003】** that contains,
4 at a minimum, for the fiscal year covered by the re-
5 port, a description of—

6 “(A) the goals of the center;

7 “(B) the educational activities carried out
8 by the center (including a detailed summary of
9 the budget for those educational activities);

10 “(C) teaching activities of faculty at the
11 center;

12 “(D) each research project carried out by
13 the center, including—

14 “(i) the identity and location of each
15 investigator working on a research project;

16 “(ii) the overall funding amount for
17 each research project (including the
18 amounts expended for the project as of the
19 date of the report);

20 “(iii) the current schedule for each re-
21 search project; and

22 “(iv) the results of each research
23 project through the date of submission of
24 the report, with particular emphasis on re-

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1 sults for the fiscal year covered by the re-
2 port; and

3 “(E) overall technology transfer and imple-
4 mentation efforts of the center.

5 “(f) PROGRAM COORDINATION.—The Secretary
6 shall—

7 “(1) coordinate the research, education, train-
8 ing, and technology transfer activities carried out by
9 recipients of grants under this section; and

10 “(2) establish and operate a clearinghouse for,
11 and disseminate, the results of those activities.

12 “(g) FUNDING.—

13 “(1) NUMBER AND AMOUNT OF GRANTS.—The
14 Secretary shall make the following grants under this
15 subsection:

16 “(A) GROUP A.—For each of fiscal years
17 2004 through 2009, the Secretary shall make a
18 grant in the amount of \$20,000,000 to each of
19 the institutions in group A (as described in sub-
20 section (a)(4)(A)).

21 “(B) GROUP B.—The Secretary shall make
22 a grant to each of the institutions in group B
23 (as described in subsection (a)(4)(B)) in the
24 amount of—

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1 “(i) \$4,000,000 for each of fiscal
2 years 2004 and 2005; and

3 “(ii) \$6,000,000 for each of fiscal
4 years 2006 and 2007.

5 “(C) GROUP C.—For each of fiscal years
6 2004 through 2007, the Secretary shall make a
7 grant in the amount of \$10,000,000 to each of
8 the institutions in group C (as described in sub-
9 section (a)(4)(C)).

10 “(D) GROUP D.—For each of fiscal years
11 2004 through 2009, the Secretary shall make a
12 grant in the amount of \$25,000,000 to each of
13 the institutions in group D (as described in
14 subsection (a)(4)(D)).

15 “(E) LIMITED GRANTS FOR GROUPS B AND
16 C.—For each of fiscal years 2008 and 2009, of
17 the institutions classified in groups B and C (as
18 described in subsection (a)(4)(B)), the Sec-
19 retary shall select and make a grant in the
20 amount of \$10,000,000 to each of not more
21 than 15 institutions.

22 “(2) USE OF FUNDS—

23 “(A) IN GENERAL.—Of the funds made
24 available for a fiscal year to a university trans-

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1 portation center established under subsection
2 (a) or (b)—

3 “(i) not less than \$250,000 shall be
4 used to establish and maintain new faculty
5 positions for the teaching of under-
6 graduate, transportation-related courses;

7 “(ii) not more than \$500,000 for the
8 fiscal year, or \$1,000,000 in the aggregate,
9 may be used to construct or improve trans-
10 portation-related laboratory facilities; and

11 “(iii) not more than \$300,000 for the
12 fiscal year may be used for student intern-
13 ships of not more than 180 days in dura-
14 tion to enable students to gain experience
15 by working on transportation projects as
16 interns with design or construction firms.

17 “(B) FACILITIES AND ADMINISTRATION
18 FEE.—Not more than 10 percent of any grant
19 made available to a university transportation
20 center (or any institution or consortium that es-
21 tablishes such a center) for a fiscal year may be
22 used to pay to the appropriate nonprofit institu-
23 tion of higher learning any administration and
24 facilities fee (or any similar overhead fee) for
25 the fiscal year.

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1 “(3) LIMITATION ON AVAILABILITY OF
2 FUNDS.—Funds made available under this sub-
3 section shall remain available for obligation for a pe-
4 riod of 2 years after September 30 of the fiscal year
5 for which the funds are authorized.”.

6 (b) OTHER UNIVERSITY FUNDING.—No university
7 (other than university transportation centers specified in
8 section 510 of title 23, United States Code (as added by
9 subsection (a)) shall receive funds made available under
10 section 2001 to carry out research unless the university
11 is selected to receive the funds—

12 (1) through a competitive process that incor-
13 porates merit-based peer review; and

14 (2) based on a proposal submitted to the Sec-
15 retary by the university in response to a request for
16 proposals issued by the Secretary.

17 (c) CONFORMING AMENDMENT.—Section 5505 of
18 title 49, United States Code, is repealed.

19 **SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL**
20 **ANALYSIS EFFORTS.**

21 (a) DEFINITIONS.—In this section:

22 (1) ADMINISTRATION.—The term “Administra-
23 tion” means the Federal Highway Administration.

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1 (2) BOARD.—The term “Board” means the
2 Transportation Research Board of the National
3 Academy of Sciences.

4 (3) BUREAU.—The term “Bureau” means the
5 Bureau of Transportation Statistics.

6 (4) DEPARTMENT.—The term “Department”
7 means the Department of Transportation.

8 (5) SECRETARY.—The term “Secretary” means
9 the Secretary of Transportation.

10 (b) PRIORITY AREAS OF EFFORT.—

11 (1) STATISTICAL STANDARDS.—The Secretary
12 shall direct the Bureau to assume the role of the
13 lead agency in working with other agencies of the
14 Department to establish, by not later than October
15 1, 2004, statistical standards for the Department.

16 (2) STATISTICAL ANALYSIS EFFORT.—

17 (A) IN GENERAL.—The Bureau shall pro-
18 vide to the Secretary, on an annual basis, an
19 overview of the level of effort expended on sta-
20 tistical analyses by each agency within the De-
21 partment.

22 (B) DUTY OF AGENCIES.—Each agency of
23 the Department shall provide to the Bureau
24 such information as the Bureau may require in
25 carrying out subparagraph (A).

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1 (3) NATIONAL SECURITY.—The Bureau shall—

2 (A) conduct a study of the ways in which
3 transportation statistics are and may be used
4 for the purpose of national security; and

5 (B) submit to the Transportation Security
6 Administration recommendations for means by
7 which the use of transportation statistics for
8 the purpose of national security may be im-
9 proved.

10 (4) MODERNIZATION.—The Bureau shall de-
11 velop new protocols for adapting data collection and
12 delivery efforts in existence as of the date of enact-
13 ment of this Act to deliver information in a more
14 timely and frequent fashion.

15 (c) STUDY.—

16 (1) IN GENERAL.—Not later than 90 days after
17 the date of enactment of this Act, the Secretary
18 shall provide a grant to, or enter into a cooperative
19 agreement or contract with, the Board for the con-
20 duct of a study of the data collection and statistical
21 analysis efforts of the Department with respect to
22 the modes of surface transportation for which funds
23 are made available under this Act.

24 (2) PURPOSE.—The purpose of the study shall
25 be to provide to the Department information for use

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1 by agencies of the Department in providing to sur-
2 face transportation agencies and individuals engaged
3 in the surface transportation field higher quality,
4 and more relevant and timely, data, statistical anal-
5 yses, and products.

6 (3) CONTENT.—The study shall include—

7 (A) an examination and analysis of the ef-
8 forts, analyses, and products (with respect to
9 usefulness and policy relevance) of the Bureau
10 as of the date of the study, as compared with
11 the duties of the Bureau specified in sub-
12 sections (c) through (f) of section 111 of title
13 49, United States Code;

14 (B) an examination and analysis of data
15 collected by, methods of data collection of, and
16 analyses performed by, agencies within the De-
17 partment; and

18 (C) recommendations relating to—

19 (i) the future efforts of the Depart-
20 ment in the area of surface transportation
21 with respect to—

22 (I) types of data collected;

23 (II) methods of data collection;

24 (III) types of analyses performed;

25 and

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1 (IV) products made available by
2 the Secretary to the transportation
3 community and Congress;

4 (ii) the means by which the Depart-
5 ment may cooperate with State transpor-
6 tation departments to provide technical as-
7 sistance in the use of data collected by
8 traffic operations centers; and

9 (iii) duplication of efforts within the
10 Department, including ways in which—

11 (I) the duplication may be re-
12 duced or eliminated; and

13 (II) each agency of the Depart-
14 ment may cooperate with, and com-
15 plement the efforts of, the others.

16 (4) CONSULTATION.—In conducting the study,
17 the Board shall consult with such stakeholders,
18 agencies, and other entities as the Board considers
19 to be appropriate.

20 (5) REPORT.—Not later than 1 year after the
21 date on which a grant is provided, or a cooperative
22 agreement or contract is entered into, for a study
23 under paragraph (1)—

24 (A) the Board shall submit to the Sec-
25 retary, the Committee on Environment and

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1 Public Works of the Senate, and the Committee
2 on Transportation and Infrastructure of the
3 House of Representatives a final report on the
4 results of the study; and

5 (B) the results of the study shall be
6 published—

7 (i) by the Secretary, on the Internet
8 website of the Department; and

9 (ii) by the Board, on the Internet
10 website of the Board.

11 (6) IMPLEMENTATION OF RESULTS.—The Bu-
12 reau shall, to the maximum extent practicable, im-
13 plement any recommendations made with respect to
14 the results of the study under this subsection.

15 (7) COMPLIANCE.—

16 (A) IN GENERAL.—The Comptroller Gen-
17 eral of the United States shall conduct a review
18 of the study under this subsection.

19 (B) NONCOMPLIANCE.—If the Comptroller
20 General of the United States determines that
21 the Bureau failed to conduct the study under
22 this subsection, the Bureau shall be ineligible to
23 receive funds from the Highway Trust Fund
24 until such time as the Bureau conducts the
25 study under this subsection.

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1 (d) CONFORMING AMENDMENTS.—

2 (1) Section 111 of title 49, United States Code,
3 is amended—

4 (A) by redesignating subsection (k) as sub-
5 section (m);

6 (B) by inserting after subsection (j) the
7 following:

8 “(k) ANNUAL REPORT.—

9 “(1) IN GENERAL.—For fiscal year 2004 and
10 each fiscal year thereafter, the Bureau shall prepare
11 and submit to the Secretary an annual report that—

12 “(A) describes progress made in respond-
13 ing to study recommendations for the fiscal
14 year; and

15 “(B) summarizes the activities and expend-
16 iture of funds by the Bureau for the fiscal year.

17 “(2) AVAILABILITY.—The Bureau shall—

18 “(A) make the report described in para-
19 graph (1) available to the public; and

20 “(B) publish the report on the Internet
21 website of the Bureau.

22 “(3) COMBINATION OF REPORTS.—The report
23 required under paragraph (1) may be included in or
24 combined with the Transportation Statistics Annual
25 Report required by subsection (j).

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1 “(l) EXPENDITURE OF FUNDS.—Funds from the
2 Highway Trust Fund (other than the Mass Transit Ac-
3 count) that are authorized to be appropriated, and made
4 available, in accordance with section 2001(a)(3) of the
5 [Safe, Accountable, Flexible, and Efficient Transpor-
6 tation Equity Act of 2003] shall be used only for the col-
7 lection and statistical analysis of information relating to
8 surface transportation systems.”; and

9 (C) in subsection (m) (as redesignated by
10 subparagraph (A)), by inserting “surface trans-
11 portation” after “sale of”.

12 (2) The analysis for chapter 55 of title 49,
13 United States Code, is amended by striking the item
14 relating to section 5505 and inserting the following:

“5505. University transportation centers.”.

15 **SEC. 2103. ADVANCED VEHICLE TECHNOLOGIES PROGRAM.**

16 (a) REPEAL.—Section 5506 of title 49, United States
17 Code, and the item relating to that section in the analysis
18 for chapter 55 of that title, are repealed.

19 (b) CONFORMING AMENDMENT.—Section 47136(f) of
20 title 49, United States Code, is amended by striking para-
21 graph (2) and inserting the following:

22 “(2) ELIGIBLE CONSORTIUM.—

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1 “(A) DEFINITION OF ELIGIBLE CONSOR-
2 TIUM.—In this paragraph, the term ‘eligible
3 consortium’ means a consortium that—

4 “(i) receives funding under the De-
5 partment of Defense Appropriations Act,
6 1993 (106 Stat. 1876); and

7 “(ii) comprises 2 or more of the fol-
8 lowing entities:

9 “(I) A business incorporated in
10 the United States.

11 “(II) A public or private research
12 organization located in the United
13 States.

14 “(III) An entity of a State or
15 local government in the United States.

16 “(IV) A Federal laboratory.

17 “(B) USE.—To the maximum extent prac-
18 ticable, participants in the pilot program shall
19 use an eligible consortium in the region of the
20 airport to receive technical assistance described
21 in paragraph (1).”.

22 **SEC. 2104. CENTERS FOR SURFACE TRANSPORTATION EX-**
23 **CELLENCE.**

24 (a) ESTABLISHMENT.—The Secretary shall establish
25 the centers for surface transportation excellence described

1 in subsection (b) to promote high-quality outcomes in sup-
2 port of strategic national programs and activities,
3 including—

- 4 (1) the environment;
- 5 (2) operations;
- 6 (3) surface transportation safety;
- 7 (4) project finance; and
- 8 (5) asset management.

9 (b) CENTERS.—The centers for surface transpor-
10 tation excellence referred to in subsection (a) are—

11 (1) a Center for Environmental Excellence to
12 provide technical assistance, information sharing of
13 best practices, and training in the use of tools and
14 decision-making processes to assist States in plan-
15 ning and delivering environmentally-sound surface
16 transportation projects;

17 (2) a Center for Operations Excellence to pro-
18 vide support for an integrated and coordinated na-
19 tional program for implementing operations in plan-
20 ning and management (including standards develop-
21 ment) for the transportation system in the United
22 States;

23 (3) a Center for Excellence in Surface Trans-
24 portation Safety to implement a program of support
25 for State transportation departments, including—

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1 (A) the maintenance of an Internet site to
2 provide critical information on safety programs;

3 (B) the provision of technical assistance to
4 support a lead State transportation department
5 for each of the 22 safety emphasis areas (as
6 identified by the Secretary); and

7 (C) the provision of training and education
8 to enhance knowledge of personnel of State
9 transportation departments in support of safety
10 highway goals;

11 (4) a Center for Excellence in Project
12 Finance—

13 (A) to provide support to State transpor-
14 tation departments in the development of fi-
15 nance plans and project oversight tools; and

16 (B) to develop and offer training in state-
17 of-the-art financing methods to advance
18 projects and leverage funds; and

19 (5) a Center for Excellence in Asset Manage-
20 ment to develop and conduct research, provide train-
21 ing and education, and disseminate information on
22 the benefits and tools for asset management.

23 (c) PROGRAM ADMINISTRATION.—

24 (1) IN GENERAL.—Before funds authorized
25 under this section for fiscal years 2005 through

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1 2009 are obligated, the Secretary shall review and
2 approve a multiyear strategic plan to be submitted
3 by each of the centers.

4 (2) TIMING.—The plan shall be submitted be-
5 fore the beginning of fiscal year 2005 and, subse-
6 quently, shall be annually updated.

7 (3) CONTENT.—The plan shall include—

8 (A) a list of research and technical assist-
9 ance projects and objectives; and

10 (B) a description of any other technology
11 transfer activities, including a summary of
12 training efforts.

13 (4) NONDUPLICATION.—The Secretary shall en-
14 sure that activities conducted by each of the centers
15 do not duplicate, and to the maximum extent prac-
16 ticable, are integrated and coordinated with similar
17 activities conducted by the Federal Highway Admin-
18 istration, the local technical assistance program, uni-
19 versity transportation centers, and other research ef-
20 forts supported with funds authorized by this title.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—For each of fiscal years
23 2004 through 2009, of the funds made available
24 under section 2001(a)(1)(A), the Secretary shall set
25 aside \$10,000,000 to carry out this section.

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1 (2) ALLOCATION OF FUNDS.—Of the funds
2 made available under paragraph (1)—

3 (A) 20 percent shall be allocated to the
4 Center for Environmental Excellence estab-
5 lished under subsection (b)(1);

6 (B) 30 percent shall be allocated to the
7 Center for Operations Excellence established
8 under subsection (b)(2);

9 (C) 20 percent shall be allocated to the
10 Center for Excellence in Surface Transportation
11 Safety established under subsection (b)(3);

12 (D) 10 percent shall be allocated to the
13 Center for Excellence in Project Finance estab-
14 lished under subsection (b)(4); and

15 (E) 20 percent shall be allocated to the
16 Center for Excellence in Asset Management es-
17 tablished under subsection (b)(5).

18 (3) APPLICABILITY OF TITLE 23.—Funds made
19 available under this section shall be available for ob-
20 ligation in the same manner as if the funds were ap-
21 portioned under chapter 1 of title 23, United States
22 Code, except that the Federal share shall be 100
23 percent.

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1 **Subtitle C—Intelligent**
2 **Transportation System Research**

3 **SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RE-**
4 **SEARCH AND TECHNICAL ASSISTANCE PRO-**
5 **GRAM.**

6 (a) IN GENERAL.—Chapter 5 of title 23, United
7 States Code (as amended by section 2101), is amended
8 by adding at the end the following:

9 “SUBCHAPTER II—INTELLIGENT TRANSPOR-
10 TATION SYSTEM RESEARCH AND TECH-
11 NICAL ASSISTANCE PROGRAM

12 **“§ 521. Finding**

13 “Congress finds that continued investment in archi-
14 tecture and standards development, research, technical as-
15 sistance for State and local governments, and systems in-
16 tegration is needed to accelerate the rate at which intel-
17 ligent transportation systems—

18 “(1) are incorporated into the national surface
19 transportation network; and

20 “(2) as a result of that incorporation, improve
21 transportation safety and efficiency and reduce costs
22 and negative impacts on communities and the envi-
23 ronment.

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1 **“§ 522. Goals and purposes**

2 “(a) GOALS.—The goals of the intelligent transpor-
3 tation system research and technical assistance program
4 include—

5 “(1) enhancement of surface transportation ef-
6 ficiency and facilitation of intermodalism and inter-
7 national trade—

8 “(A) to meet a significant portion of future
9 transportation needs, including public access to
10 employment, goods, and services; and

11 “(B) to reduce regulatory, financial, and
12 other transaction costs to public agencies and
13 system users;

14 “(2) the acceleration of the use of intelligent
15 transportation systems to assist in the achievement
16 of national transportation safety goals, including the
17 enhancement of safe operation of motor vehicles and
18 nonmotorized vehicles, with particular emphasis on
19 decreasing the number and severity of collisions;

20 “(3) protection and enhancement of the natural
21 environment and communities affected by surface
22 transportation, with particular emphasis on assisting
23 State and local governments in achieving national
24 environmental goals;

25 “(4) accommodation of the needs of all users of
26 surface transportation systems, including—

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1 “(A) operators of commercial vehicles, pas-
2 senger vehicles, and motorcycles;

3 “(B) users of public transportation users
4 (with respect to intelligent transportation sys-
5 tem user services); and

6 “(C) individuals with disabilities; and

7 “(5)(A) improvement of the ability of the
8 United States to respond to emergencies and natural
9 disasters; and

10 “(B) enhancement of national security and de-
11 fense mobility.

12 “(b) PURPOSES.—The Secretary shall carry out ac-
13 tivities under the intelligent transportation system re-
14 search and technical assistance program to, at a
15 minimum—

16 “(1) assist in the development of intelligent
17 transportation system technologies;

18 “(2) ensure that Federal, State, and local
19 transportation officials have adequate knowledge of
20 intelligent transportation systems for full consider-
21 ation in the transportation planning process;

22 “(3) improve regional cooperation, interoper-
23 ability, and operations for effective intelligent trans-
24 portation system performance;

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1 “(4) promote the innovative use of private re-
2 sources;

3 “(5) assist State transportation departments in
4 developing a workforce capable of developing, oper-
5 ating, and maintaining intelligent transportation
6 systems;

7 “(6) maintain an updated national ITS archi-
8 tecture and consensus-based standards while ensur-
9 ing an effective Federal presence in the formulation
10 of domestic and international ITS standards;

11 “(7) advance commercial vehicle operations
12 components of intelligent transportation systems—

13 “(A) to improve the safety and produc-
14 tivity of commercial vehicles and drivers; and

15 “(B) to reduce costs associated with com-
16 mercial vehicle operations and Federal and
17 State commercial vehicle regulatory require-
18 ments;

19 “(8) evaluate costs and benefits of intelligent
20 transportation systems projects;

21 “(9) improve, as part of the Archived Data
22 User Service and in cooperation with the Bureau of
23 Transportation Statistics, the collection of surface
24 transportation system condition and performance

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1 data through the use of intelligent transportation
2 system technologies; and

3 “(10) ensure access to transportation informa-
4 tion and services by travelers of all ages.

5 **“§ 523. Definitions**

6 “In this subchapter:

7 “(1) COMMERCIAL VEHICLE INFORMATION SYS-
8 TEMS AND NETWORKS.—The term ‘commercial vehi-
9 cle information systems and networks’ means the in-
10 formation systems and communications networks
11 that support commercial vehicle operations.

12 “(2) COMMERCIAL VEHICLE OPERATIONS.—

13 “(A) IN GENERAL.—The term ‘commercial
14 vehicle operations’ means motor carrier oper-
15 ations and motor vehicle regulatory activities
16 associated with the commercial movement of
17 goods (including hazardous materials) and pas-
18 sengers.

19 “(B) INCLUSIONS.—The term ‘commercial
20 vehicle operations’, with respect to the public
21 sector, includes—

22 “(i) the issuance of operating creden-
23 tials;

24 “(ii) the administration of motor vehi-
25 cle and fuel taxes; and

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1 “(iii) roadside safety and border
2 crossing inspection and regulatory compli-
3 ance operations.

4 “(3) INTELLIGENT TRANSPORTATION INFRA-
5 STRUCTURE.—The term ‘intelligent transportation
6 infrastructure’ means fully integrated public sector
7 intelligent transportation system components, as de-
8 fined by the Secretary.

9 “(4) INTELLIGENT TRANSPORTATION SYS-
10 TEM.—The term ‘intelligent transportation system’
11 means electronics, communications, or information
12 processing used singly or in combination to improve
13 the efficiency or safety of a surface transportation
14 system.

15 “(5) NATIONAL ITS ARCHITECTURE.—The term
16 ‘national ITS architecture’ means the common
17 framework for interoperability adopted by the Sec-
18 retary that defines—

19 “(A) the functions associated with intel-
20 ligent transportation system user services;

21 “(B) the physical entities or subsystems
22 within which the functions reside;

23 “(C) the data interfaces and information
24 flows between physical subsystems; and

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1 “(D) the communications requirements as-
2 sociated with the information flows.

3 “(6) STANDARD.—The term ‘standard’ means a
4 document that—

5 “(A) contains technical specifications or
6 other precise criteria for intelligent transpor-
7 tation systems that are to be used consistently
8 as rules, guidelines, or definitions of character-
9 istics so as to ensure that materials, products,
10 processes, and services are fit for their pur-
11 poses; and

12 “(B) may—

13 “(i) support the national ITS archi-
14 tecture; and

15 “(ii) promote—

16 “(I) the widespread use and
17 adoption of intelligent transportation
18 system technology as a component of
19 the surface transportation systems of
20 the United States; and

21 “(II) interoperability among in-
22 telligent transportation system tech-
23 nologies implemented throughout the
24 States.

1 **“§ 524. General authorities and requirements**

2 “(a) SCOPE.—Subject to this subchapter, the Sec-
3 retary shall carry out an ongoing intelligent transportation
4 system research program—

5 “(1) to research, develop, and operationally test
6 intelligent transportation systems; and

7 “(2) to provide technical assistance in the na-
8 tionwide application of those systems as a compo-
9 nent of the surface transportation systems of the
10 United States.

11 “(b) POLICY.—Intelligent transportation system
12 operational tests and projects funded under this sub-
13 chapter shall encourage, but not displace, public-private
14 partnerships or private sector investment in those tests
15 and projects.

16 “(c) COOPERATION WITH GOVERNMENTAL, PRI-
17 VATE, AND EDUCATIONAL ENTITIES.—The Secretary
18 shall carry out the intelligent transportation system re-
19 search and technical assistance program in cooperation
20 with—

21 “(1) State and local governments and other
22 public entities;

23 “(2) the private sector;

24 “(3) Federal laboratories (as defined in section
25 501); and

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1 “(4) colleges and universities, including histori-
2 cally black colleges and universities and other minor-
3 ity institutions of higher education.

4 “(d) CONSULTATION WITH FEDERAL OFFICIALS.—
5 In carrying out the intelligent transportation system re-
6 search program, the Secretary, as appropriate, shall con-
7 sult with—

8 “(1) the Secretary of Commerce;

9 “(2) the Secretary of the Treasury;

10 “(3) the Administrator of the Environmental
11 Protection Agency;

12 “(4) the Director of the National Science Foun-
13 dation; and

14 “(5) the Secretary of Homeland Security.

15 “(e) TECHNICAL ASSISTANCE, TRAINING, AND IN-
16 FORMATION.—The Secretary may provide technical assist-
17 ance, training, and information to State and local govern-
18 ments seeking to implement, operate, maintain, or evalu-
19 ate intelligent transportation system technologies and
20 services.

21 “(f) TRANSPORTATION PLANNING.—The Secretary
22 may provide funding to support adequate consideration of
23 transportation system management and operations (in-
24 cluding intelligent transportation systems) within metro-
25 politan and statewide transportation planning processes.

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1 “(g) INFORMATION CLEARINGHOUSE.—The Sec-
2 retary shall—

3 “(1) maintain a repository for technical and
4 safety data collected as a result of federally spon-
5 sored projects carried out under this subchapter;
6 and

7 “(2) on request, make that information (except
8 for proprietary information and data) readily avail-
9 able to all users of the repository at an appropriate
10 cost.

11 “(h) ADVISORY COMMITTEES.—

12 “(1) IN GENERAL.—In carrying out this sub-
13 chapter, the Secretary—

14 “(A) may use 1 or more advisory commit-
15 tees; and

16 “(B) shall designate a public-private orga-
17 nization, the members of which participate in
18 on-going research, planning, standards develop-
19 ment, deployment, and marketing of ITS pro-
20 grams, products, and services, and coordinate
21 the development and deployment of intelligent
22 transportation systems in the United States, as
23 the Federal advisory committee authorized by
24 section 5204(h) of the Transportation Equity
25 Act for the 21st Century (112 Stat. 454).

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1 “(2) FUNDING.—Of the amount made available
2 to carry out this subchapter, the Secretary may use
3 \$1,500,000 for each fiscal year for advisory commit-
4 tees described in paragraph (1).

5 “(3) APPLICABILITY OF FEDERAL ADVISORY
6 COMMITTEE ACT.—Any advisory committee de-
7 scribed in paragraph (1) shall be subject to the Fed-
8 eral Advisory Committee Act (5 U.S.C. App.).

9 “(i) PROCUREMENT METHODS.—The Secretary shall
10 develop and provide appropriate technical assistance and
11 guidance to assist State and local agencies in evaluating
12 and selecting appropriate methods of deployment and pro-
13 curement for intelligent transportation system projects
14 carried out using funds made available from the Highway
15 Trust Fund, including innovative and nontraditional
16 methods such as Information Technology Omnibus Pro-
17 curement (as developed by the Secretary).

18 “(j) EVALUATIONS.—

19 “(1) GUIDELINES AND REQUIREMENTS.—

20 “(A) IN GENERAL.—The Secretary shall
21 issue revised guidelines and requirements for
22 the evaluation of operational tests and other in-
23 telligent transportation system projects carried
24 out under this subchapter.

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1 “(B) OBJECTIVITY AND INDEPENDENCE.—

2 The guidelines and requirements issued under
3 subparagraph (A) shall include provisions to en-
4 sure the objectivity and independence of the
5 evaluator so as to avoid any real or apparent
6 conflict of interest or potential influence on the
7 outcome by—

8 “(i) parties to any such test; or

9 “(ii) any other formal evaluation car-
10 ried out under this subchapter.

11 “(C) FUNDING.—The guidelines and re-
12 quirements issued under subparagraph (A) shall
13 establish evaluation funding levels based on the
14 size and scope of each test that ensure adequate
15 evaluation of the results of the test or project.

16 “(2) SPECIAL RULE.—Any survey, question-
17 naire, or interview that the Secretary considers nec-
18 essary to carry out the evaluation of any test or pro-
19 gram assessment activity under this subchapter shall
20 not be subject to chapter 35 of title 44.

21 **“§ 525. National ITS Program Plan**

22 “(a) IN GENERAL.—

23 “(1) UPDATES.—Not later than 1 year after
24 the date of enactment of the [Safe, Accountable,
25 Flexible, and Efficient Transportation Equity Act of

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1 2003], the Secretary, in consultation with interested
2 stakeholders (including State transportation depart-
3 ments) shall develop a 5-year National ITS Program
4 Plan.

5 “(2) SCOPE.—The National ITS Program Plan
6 shall—

7 “(A) specify the goals, objectives, and mile-
8 stones for the research and deployment of intel-
9 ligent transportation systems in the contexts
10 of—

11 “(i) major metropolitan areas;

12 “(ii) smaller metropolitan and rural
13 areas; and

14 “(iii) commercial vehicle operations;

15 “(B) specify the manner in which specific
16 programs and projects will achieve the goals,
17 objectives, and milestones referred to in sub-
18 paragraph (A), including consideration of a 5-
19 year timeframe for the goals and objectives;

20 “(C) identify activities that provide for the
21 dynamic development, testing, and necessary re-
22 vision of standards and protocols to promote
23 and ensure interoperability in the implementa-
24 tion of intelligent transportation system tech-

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1 nologies, including actions taken to establish
2 standards; and

3 “(D) establish a cooperative process with
4 State and local governments for—

5 “(i) determining desired surface
6 transportation system performance levels;
7 and

8 “(ii) developing plans for accelerating
9 the incorporation of specific intelligent
10 transportation system capabilities into sur-
11 face transportation systems.

12 “(b) REPORTING.—The National ITS Program Plan
13 shall be transmitted and biennially updated as part of the
14 surface transportation research and technology develop-
15 ment strategic plan developed under section 508(c).

16 **“§ 526. National ITS architecture and standards**

17 “(a) IN GENERAL.—

18 “(1) DEVELOPMENT, IMPLEMENTATION, AND
19 MAINTENANCE.—In accordance with section 12(d) of
20 the National Technology Transfer and Advancement
21 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783),
22 the Secretary shall develop, implement, and maintain
23 a national ITS architecture and supporting stand-
24 ards and protocols to promote the widespread use
25 and evaluation of intelligent transportation system

1 technology as a component of the surface transpor-
2 tation systems of the United States.

3 “(2) INTEROPERABILITY AND EFFICIENCY.—To
4 the maximum extent practicable, the national ITS
5 architecture shall promote interoperability among,
6 and efficiency of, intelligent transportation system
7 technologies implemented throughout the United
8 States.

9 “(3) USE OF STANDARDS DEVELOPMENT ORGA-
10 NIZATIONS.—In carrying out this section, the Sec-
11 retary shall use the services of such standards devel-
12 opment organizations as the Secretary determines to
13 be appropriate.

14 “(b) PROVISIONAL STANDARDS.—

15 “(1) IN GENERAL.—If the Secretary finds that
16 the development or selection of an intelligent trans-
17 portation system standard jeopardizes the timely
18 achievement of the objectives identified in subsection
19 (a), the Secretary may establish a provisional
20 standard—

21 “(A) after consultation with affected par-
22 ties; and

23 “(B) by using, to the maximum extent
24 practicable, the work product of appropriate
25 standards development organizations.

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1 “(2) CRITICAL STANDARDS.—If a standard
2 identified by the Secretary as critical has not been
3 adopted and published by the appropriate standards
4 development organization by the date of enactment
5 of this subchapter, the Secretary shall establish a
6 provisional standard—

7 “(A) after consultation with affected par-
8 ties; and

9 “(B) by using, to the maximum extent
10 practicable, the work product of appropriate
11 standards development organizations.

12 “(3) PERIOD OF EFFECTIVENESS.—A provi-
13 sional standard established under paragraph (1) or
14 (2) shall—

15 “(A) be published in the Federal Register;
16 and

17 “(B) remain in effect until such time as
18 the appropriate standards development organi-
19 zation adopts and publishes a standard.

20 “(c) WAIVER OF REQUIREMENT TO ESTABLISH PRO-
21 VISIONAL CRITICAL STANDARD.—

22 “(1) IN GENERAL.—The Secretary may waive
23 the requirement under subsection (b)(2) to establish
24 a provisional standard if the Secretary determines
25 that additional time would be productive in, or that

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1 establishment of a provisional standard would be
2 counterproductive to, the timely achievement of the
3 objectives identified in subsection (a).

4 “(2) NOTICE.—The Secretary shall publish in
5 the Federal Register a notice that describes—

6 “(A) each standard for which a waiver of
7 the provisional standard requirement is granted
8 under paragraph (1);

9 “(B) the reasons for and effects of grant-
10 ing the waiver; and

11 “(C) an estimate as to the date on which
12 the standard is expected to be adopted through
13 a process consistent with section 12(d) of the
14 National Technology Transfer and Advance-
15 ment Act of 1995 (15 U.S.C. 272 note; 110
16 Stat. 783).

17 “(3) WITHDRAWAL OF WAIVER.—

18 “(A) IN GENERAL.—The Secretary may
19 withdraw a waiver granted under paragraph (1)
20 at any time.

21 “(B) NOTICE.—On withdrawal of a waiver,
22 the Secretary shall publish in the Federal Reg-
23 ister a notice that describes—

24 “(i) each standard for which the waiv-
25 er has been withdrawn; and

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1 “(ii) the reasons for withdrawing the
2 waiver.

3 “(d) CONFORMITY WITH NATIONAL ITS ARCHITEC-
4 TURE.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graphs (2) and (3), the Secretary shall ensure that
7 intelligent transportation system projects carried out
8 using funds made available from the Highway Trust
9 Fund conform to the national ITS architecture, ap-
10 plicable standards or provisional standards, and pro-
11 tocols developed under subsection (a).

12 “(2) DISCRETION OF SECRETARY.—The Sec-
13 retary may authorize exceptions to paragraph (1) for
14 projects designed to achieve specific research objec-
15 tives outlined in—

16 “(A) the National ITS Program Plan
17 under section 525; or

18 “(B) the surface transportation research
19 and technology development strategic plan de-
20 veloped under section 508(c).

21 “(3) EXCEPTIONS.—Paragraph (1) shall not
22 apply to funds used for operation or maintenance of
23 an intelligent transportation system in existence on
24 the date of enactment of this subchapter.

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1 **“§ 527. Commercial vehicle information systems and**
2 **networks deployment**

3 “(a) DEFINITIONS.—In this section:

4 “(1) COMMERCIAL VEHICLE INFORMATION SYS-
5 TEMS AND NETWORKS.—The term ‘commercial vehi-
6 cle information systems and networks’ means the in-
7 formation systems and communications networks
8 that provide the capability to—

9 “(A) improve the safety of commercial ve-
10 hicle operations;

11 “(B) increase the efficiency of regulatory
12 inspection processes to reduce administrative
13 burdens by advancing technology to facilitate
14 inspections and increase the effectiveness of en-
15 forcement efforts;

16 “(C) advance electronic processing of reg-
17 istration information, driver licensing informa-
18 tion, fuel tax information, inspection and crash
19 data, and other safety information;

20 “(D) enhance the safe passage of commer-
21 cial vehicles across the United States and
22 across international borders; and

23 “(E) promote the communication of infor-
24 mation among the States and encourage
25 multistate cooperation and corridor develop-
26 ment.

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1 “(2) COMMERCIAL VEHICLE OPERATIONS.—

2 “(A) IN GENERAL.—The term ‘commercial
3 vehicle operations’ means motor carrier oper-
4 ations and motor vehicle regulatory activities
5 associated with the commercial movement of
6 goods (including hazardous materials) and pas-
7 sengers.

8 “(B) INCLUSIONS.—The term ‘commercial
9 vehicle operations’, with respect to the public
10 sector, includes—

11 “(i) the issuance of operating creden-
12 tials;

13 “(ii) the administration of motor vehi-
14 cle and fuel taxes; and

15 “(iii) the administration of roadside
16 safety and border crossing inspection and
17 regulatory compliance operations.

18 “(3) CORE DEPLOYMENT.—The term ‘core de-
19 ployment’ means the deployment of systems in a
20 State necessary to provide the State with—

21 “(A) safety information exchange to—

22 “(i) electronically collect and transmit
23 commercial vehicle and driver inspection
24 data at a majority of inspection sites;

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1 “(ii) connect to the Safety and Fit-
2 ness Electronic Records system for access
3 to—

4 “(I) interstate carrier and com-
5 mercial vehicle data;

6 “(II) summaries of past safety
7 performance; and

8 “(III) commercial vehicle creden-
9 tials information; and

10 “(iii) exchange carrier data and com-
11 mercial vehicle safety and credentials infor-
12 mation within the State and connect to
13 Safety and Fitness Electronic Records sys-
14 tem for access to interstate carrier and
15 commercial vehicle data;

16 “(B) interstate credentials administration
17 to—

18 “(i)(I) perform end-to-end (including
19 carrier application) jurisdiction application
20 processing, and credential issuance, of at
21 least the International Registration Plan
22 and International Fuel Tax Agreement cre-
23 dentials; and

24 “(II) extend the processing to other
25 credentials, including intrastate, titling,

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1 oversize or overweight requirements, car-
2 rier registration, and hazardous materials;

3 “(ii) connect to the International Reg-
4 istration Plan and International Fuel Tax
5 Agreement clearinghouses; and

6 “(iii)(I) have at least 10 percent of
7 the transaction volume handled electroni-
8 cally; and

9 “(II) have the capability to add more
10 carriers and to extend to branch offices
11 where applicable; and

12 “(C) roadside electronic screening to elec-
13 tronically screen transponder-equipped commer-
14 cial vehicles at a minimum of 1 fixed or mobile
15 inspection site and to replicate the screening at
16 other sites.

17 “(4) EXPANDED DEPLOYMENT.—The term ‘ex-
18 panded deployment’ means the deployment of sys-
19 tems in a State that—

20 “(A) exceed the requirements of a core de-
21 ployment of commercial vehicle information sys-
22 tems and networks;

23 “(B) improve safety and the productivity
24 of commercial vehicle operations; and

25 “(C) enhance transportation security.

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1 “(b) PROGRAM.—The Secretary shall carry out a
2 commercial vehicle information systems and networks pro-
3 gram to—

4 “(1) improve the safety and productivity of
5 commercial vehicles and drivers; and

6 “(2) reduce costs associated with commercial
7 vehicle operations and Federal and State commercial
8 vehicle regulatory requirements.

9 “(c) PURPOSE.—It is the purpose of the program to
10 advance the technological capability and promote the de-
11 ployment of intelligent transportation system applications
12 for commercial vehicle operations, including commercial
13 vehicle, commercial driver, and carrier-specific information
14 systems and networks.

15 “(d) CORE DEPLOYMENT GRANTS.—

16 “(1) IN GENERAL.—The Secretary shall make
17 grants to eligible States for the core deployment of
18 commercial vehicle information systems and net-
19 works.

20 “(2) ELIGIBILITY.—To be eligible for a core de-
21 ployment grant under this subsection, a State
22 shall—

23 “(A) have a commercial vehicle information
24 systems and networks program plan and a top
25 level system design approved by the Secretary;

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1 “(B) certify to the Secretary that the com-
2 mercial vehicle information systems and net-
3 works deployment activities of the State (in-
4 cluding hardware procurement, software and
5 system development, and infrastructure modi-
6 fications)—

7 “(i) are consistent with the national
8 intelligent transportation systems and com-
9 mercial vehicle information systems and
10 networks architectures and available stand-
11 ards; and

12 “(ii) promote interoperability and effi-
13 ciency, to the maximum extent practicable;
14 and

15 “(C) agree to execute interoperability tests
16 developed by the Federal Motor Carrier Safety
17 Administration to verify that the systems of the
18 State conform with the national intelligent
19 transportation systems architecture, applicable
20 standards, and protocols for commercial vehicle
21 information systems and networks.

22 “(3) AMOUNT OF GRANTS.—The maximum ag-
23 gregate amount a State may receive under this sub-
24 section for the core deployment of commercial vehi-
25 cle information systems and networks may not ex-

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1 ceed \$2,500,000, including funds received under
2 **【sections 4001(e)】** and funds received under **【para-**
3 **graphs (5) and (6) of section 5001(a) of the Trans-**
4 **portation Equity Act for the 21st Century (Public**
5 **Law 105–178; 112 Stat. 420)】** for the core deploy-
6 ment of commercial vehicle information systems and
7 networks.

8 “(4) USE OF FUNDS.—

9 “(A) IN GENERAL.—Subject to subpara-
10 graph (B), funds from a grant under this sub-
11 section may only be used for the core deploy-
12 ment of commercial vehicle information systems
13 and networks.

14 “(B) REMAINING FUNDS.—An eligible
15 State that has completed the core deployment
16 of commercial vehicle information systems and
17 networks, or completed the deployment before
18 core deployment grant funds are expended, may
19 use the remaining core deployment grant funds
20 for the expanded deployment of commercial ve-
21 hicle information systems and networks in the
22 State.

23 “(e) EXPANDED DEPLOYMENT GRANTS.—

24 “(1) IN GENERAL.—For each fiscal year, from
25 the funds remaining after the Secretary has made

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1 core deployment grants under subsection (d), the
2 Secretary may make grants to each eligible State, on
3 request, for the expanded deployment of commercial
4 vehicle information systems and networks.

5 “(2) ELIGIBILITY.—Each State that has com-
6 pleted the core deployment of commercial vehicle in-
7 formation systems and networks shall be eligible for
8 an expanded deployment grant.

9 “(3) AMOUNT OF GRANTS.—Each fiscal year,
10 the Secretary may distribute funds available for ex-
11 panded deployment grants equally among the eligible
12 States in an amount that does not exceed
13 \$1,000,000 for each State.

14 “(4) USE OF FUNDS.—A State may use funds
15 from a grant under this subsection only for the ex-
16 panded deployment of commercial vehicle informa-
17 tion systems and networks.

18 “(f) FEDERAL SHARE.—

19 “(1) FEDERAL FUNDS FOR SECTION.—The
20 Federal share of the cost of a project payable from
21 funds made available to carry out this section shall
22 not exceed 50 percent.

23 “(2) ALL FEDERAL FUNDS.—The total Federal
24 share of the cost of a project payable from all eligi-
25 ble sources shall not exceed 80 percent.

1 “(g) FUNDING.—Funds authorized to be appro-
2 priated to carry out this section shall be available for obli-
3 gation in the same manner and to the same extent as if
4 the funds were apportioned under chapter 1, except that
5 the funds shall remain available until expended.

6 **“§ 528. Research and development**

7 “(a) IN GENERAL.—The Secretary shall carry out a
8 comprehensive program of intelligent transportation sys-
9 tem research, development, and operational tests of intel-
10 ligent vehicles and intelligent infrastructure systems, and
11 other similar activities that are necessary to carry out this
12 subchapter.

13 “(b) PRIORITY AREAS.—Under the program, the Sec-
14 retary shall give priority to funding projects that—

15 “(1) assist in the development of an inter-
16 connected national intelligent transportation system
17 network that—

18 “(A) improves the reliability of the surface
19 transportation system;

20 “(B) supports national security;

21 “(C) reduces, by at least 20 percent, the
22 cost of manufacturing, deploying, and operating
23 intelligent transportation systems network com-
24 ponents;

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1 “(D) could assist in deployment of the
2 Armed Forces in response to a crisis; and

3 “(E) improves response to, and evacuation
4 of the public during, an emergency situation;

5 “(2) address traffic management, incident man-
6 agement, transit management, toll collection traveler
7 information, or highway operations systems with
8 goals of—

9 “(A) reducing metropolitan congestion by
10 5 percent by 2010;

11 “(B) ensuring that a national, interoper-
12 able 511 system, along with a national traffic
13 information system that includes a user-friend-
14 ly, comprehensive website, is fully implemented
15 for use by travelers throughout the United
16 States by September 30, 2010; and

17 “(C)(i) improving incident management re-
18 sponse, particularly in rural areas, so that rural
19 emergency response times are reduced by an av-
20 erage of 10 minutes; and

21 “(ii) subject to subsection (d), improving
22 communication between emergency care pro-
23 viders and trauma centers;

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1 “(3) address traffic management, incident man-
2 agement, transit management, toll collection, trav-
3 eler information, or highway operations systems;

4 “(4) conduct operational tests of the integration
5 of at least 3 crash-avoidance technologies in pas-
6 senger vehicles;

7 “(5) incorporate human factors research, in-
8 cluding the science of the driving process;

9 “(6) facilitate the integration of intelligent in-
10 frastructure, vehicle, and control technologies;

11 “(7) incorporate research on the impact of envi-
12 ronmental, weather, and natural conditions on intel-
13 ligent transportation systems, including the effects
14 of cold climates;

15 “(8) as determined by the Secretary, will im-
16 prove the overall safety performance of vehicles and
17 roadways, including the use of real-time setting of
18 speed limits through the use of speed management
19 technology;

20 “(9) examine—

21 “(A) the application to intelligent trans-
22 portation systems of appropriately modified ex-
23 isting technologies from other industries; and

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1 “(B) the development of new, more robust
2 intelligent transportation systems technologies
3 and instrumentation;

4 “(10) develop and test communication tech-
5 nologies that—

6 “(A) are based on an assessment of the
7 needs of officers participating in a motor car-
8 rier safety program funded under section 31104
9 of title 49;

10 “(B) take into account the effectiveness
11 and adequacy of available technology;

12 “(C) address systems integration,
13 connectivity, and interoperability challenges;
14 and

15 “(D) provide the means for officers partici-
16 pating in a motor carrier safety program fund-
17 ed under section 31104 of title 49 to directly
18 assess, without an intermediary, current and
19 accurate safety and regulatory information on
20 motor carriers, commercial motor vehicles and
21 drivers at roadside or mobile inspection facili-
22 ties;

23 “(11) enhance intermodal use of intelligent
24 transportation systems for diverse groups, including
25 for emergency and health-related services;

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1 “(12) improve sensing and wireless communica-
2 tions that provide real-time information regarding
3 congestion and incidents;

4 “(13) develop and test high-accuracy, lane-level,
5 real-time accessible digital map architectures that
6 can be used by intelligent vehicles and intelligent in-
7 frastructure elements to facilitate safety and crash
8 avoidance (including establishment of national
9 standards for an open-architecture digital map of all
10 public roads that is compatible with electronic 9-1-
11 1 services);

12 “(14) encourage the dual-use of intelligent
13 transportation system technologies (such as wireless
14 communications) for—

15 “(A) emergency services;

16 “(B) road pricing; and

17 “(C) local economic development; and

18 “(15) advance the use of intelligent transpor-
19 tation systems to facilitate high-performance trans-
20 portation systems, such as through—

21 “(A) congestion-pricing;

22 “(B) real-time facility management;

23 “(C) rapid-emergency response; and

24 “(D) just-in-time transit.

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1 “(c) OPERATIONAL TESTS.—Operational tests con-
2 ducted under this section shall be designed for—

3 “(1) the collection of data to permit objective
4 evaluation of the results of the tests;

5 “(2) the derivation of cost-benefit information
6 that is useful to others contemplating deployment of
7 similar systems; and

8 “(3) the development and implementation of
9 standards.

10 “(d) FEDERAL SHARE.—The Federal share of the
11 costs of operational tests under subsection (a) shall not
12 exceed 80 percent.

13 **“§ 529. Use of funds**

14 “(a) IN GENERAL.—For each fiscal year, not more
15 than \$5,000,000 of the funds made available to carry out
16 this subchapter shall be used for intelligent transportation
17 system outreach, public relations, displays, tours, and bro-
18 chures.

19 “(b) APPLICABILITY.—Subsection (a) shall not apply
20 to intelligent transportation system training, scholarships,
21 or the publication or distribution of research findings,
22 technical guidance, or similar documents.”.

23 (b) CONFORMING AMENDMENT.—Title V of the
24 Transportation Equity Act for the 21st Century is amend-

1 ed by striking subtitle C (23 U.S.C. 502 note; 112 Stat.
2 452).

3 **Subtitle D—Clean Hydrogen Fuel**
4 **Cell Research for Transportation**

5 **SEC. 2301. CLEAN HYDROGEN FUEL CELL RESEARCH FOR**
6 **TRANSPORTATION.**

7 Chapter 5 of title 23, United States Code (as amend-
8 ed by section 2201), is amended by adding at the end the
9 following:

10 “SUBCHAPTER III—MISCELLANEOUS
11 “§ 531. **Clean hydrogen fuel cell research for trans-**
12 **portation**

13 “(a) FINDING.—Congress finds that it is in the na-
14 tional interest to accelerate introduction of clean renew-
15 able hydrogen energy fuel cell technologies in order to—

16 “(1) increase energy efficiency and security;
17 and

18 “(2) enable the use of clean, domestic, and re-
19 newable energy sources for transportation.

20 “(b) PURPOSES.—The purposes of this section are—

21 “(1) to direct the Secretary to conduct research
22 on production, delivery, storage, and use of clean hy-
23 drogen fuel cell technologies;

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1 “(2) to accelerate the commercialization and
2 widespread use of clean hydrogen fuel cell tech-
3 nologies in transportation in order to—

4 “(A) reduce the life cycle pollution and
5 greenhouse gas emissions from transportation;
6 and

7 “(B) enable widespread use of water, agri-
8 cultural products, and other renewable energy
9 sources through clean, efficient, and flexible
10 storage, transportation, and use of those
11 sources;

12 “(3) to reduce the costs of fuel cell stacks and
13 clean hydrogen fuel;

14 “(4) to improve hydrogen storage and other
15 critical technologies;

16 “(5) to enable the economical and environ-
17 mentally sound use of renewable resources for the
18 production of hydrogen; and

19 “(6) to ensure the coordinated availability of
20 clean hydrogen-powered vehicles and the necessary
21 refueling infrastructure.

22 “(c) DEFINITIONS.—In this section:

23 “(1) COMMISSION.—The term ‘Commission’
24 means the advisory commission established under
25 subsection (e).

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1 “(2) DEPARTMENT.—The term ‘Department’
2 means the Department of Transportation.

3 “(3) SECRETARY.—The term ‘Secretary’ means
4 the Secretary of Energy.

5 “(d) COORDINATION AND CONSULTATION.—

6 “(1) IN GENERAL.—The Secretary shall have
7 overall management responsibility for carrying out
8 this section.

9 “(2) ADMINISTRATIVE ACTIONS.—In carrying
10 out this section—

11 “(A) the Secretary shall coordinate of all
12 research activities required by this section with
13 the Department of Energy;

14 “(B) the Secretary and the Commission
15 may obtain assistance from any other Federal
16 agency—

17 “(i) on a reimbursable or non-
18 reimbursable basis; and

19 “(ii) with the consent of the Federal
20 agency; and

21 “(e) DUPLICATION.—The Secretary shall ensure, to
22 the maximum extent practicable, that activities under this
23 Act do not—

24 “(1) duplicate any available research and devel-
25 opment results; or

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1 “(2) displace or compete with privately-funded
2 clean hydrogen fuel cell activities.

3 “(f) ADVISORY COMMISSION.—

4 “(1) ESTABLISHMENT.—There is established an
5 advisory commission, to be known as the ‘Clean Hy-
6 drogen Fuel Cell Technical Advisory Commission’, to
7 advise the Secretary in carrying out this section.

8 “(2) MEMBERSHIP.—

9 “(A) COMPOSITION.—The Commission
10 shall be comprised of 11 members, of whom—

11 “(i) 3 members shall be appointed by
12 the President;

13 “(ii) 2 members shall be appointed by
14 the Speaker of the House of Representa-
15 tives;

16 “(iii) 2 members shall be appointed by
17 the minority leader of the House of Rep-
18 resentatives;

19 “(iv) 2 members shall be appointed by
20 the majority leader of the Senate; and

21 “(v) 2 members shall be appointed by
22 the minority leader of the Senate.

23 “(B) QUALIFICATIONS.—Members ap-
24 pointed to under subparagraph (A) shall have
25 experience in—

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1 “(i) surface transportation adminis-
2 tration;

3 “(ii) fuel cell research and develop-
4 ment;

5 “(iii) fuel distribution and delivery;

6 “(iv) the automotive industry;

7 “(v) organic chemistry

8 “(vi) clean hydrogen production; and

9 “(vii) other activities that provide
10 unique prospective on fuel cell deployment
11 for transportation;

12 “(C) DATE OF APPOINTMENT.—The ap-
13 pointment of a member to the Commission shall
14 be made not later than 180 days after the date
15 of enactment of this section.

16 “(D) TERMS.—A member shall be ap-
17 pointed for the life of the Commission.

18 “(E) VACANCIES.—A vacancy on the
19 Commission—

20 “(i) shall not affect the powers of the
21 Commission; and

22 “(ii) shall be filled in the same man-
23 ner as the original appointment was
24 made—

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1 “(F) MEETINGS.—The Commission shall
2 meet at the call of the Chairperson.

3 “(G) QUORUM.—A majority of the mem-
4 bers of the Commission shall constitute a
5 quorum, but a lesser number of members may
6 hold meetings.

7 “(H) CHAIRPERSON AND VICE CHAIR-
8 PERSON.—The Commission shall select a Chair-
9 person and Vice Chairperson from among the
10 members of the Commission.

11 “(f) DUTIES. The Commission shall—

12 “(1) conduct a comprehensive research effort to
13 examine alternative sources of fuel for fuel cell tech-
14 nology that—

15 “(A) are clean and renewable, such as
16 water- or agriculture-based products;

17 “(B) are cost-effective and efficient, such
18 as fuel cell technologies that can be used to
19 power automobiles, trucks, and other road-bear-
20 ing vehicles in the transportation sector; and

21 “(C) may be used to meet delivery and in-
22 frastructure needs or to fuel clean hydrogen-
23 powered fuel cell technologies in transportation;

24 “(2) conduct the research in a manner that
25 builds on—

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1 “(A) finding, conclusions, and rec-
2 ommendations of recent research conducted by
3 the Department of Energy; and

4 “(B) other relevant research; and

5 “(2) enter into a contract with an appropriate
6 organization, agency, university, or entity to conduct
7 the research required under this section.

8 “(g) REVIEW BY THE NATIONAL ACADEMY OF
9 SCIENCES.—Not later than September 30, 2007, the Na-
10 tional Academy of Sciences shall—

11 “(1) complete a review of—

12 “(A) the progress made of the research
13 conducted by the Commission; and

14 “(B) the need for modified or additional
15 research; and

16 “(2) submit to Congress a report that describes
17 the results of the review.

18 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
19 is authorized to be appropriated from the Highway Trust
20 Fund (other than the Mass Transit Account) to carry out
21 this section—

22 “(1) \$5,000,000 for fiscal year 2004;

23 “(2) \$6,000,000 for fiscal year 2005;

24 “(3) \$7,000,000 for fiscal year 2006; and

25 “(4) \$8,000,000 for fiscal year 2007.”.

1 “(2) encouraging the development of an inte-
2 grated system of public transportation information;
3 and

4 “(3) providing intercity bus intermodal pas-
5 senger facility grants.

6 **§ 5572. Definitions**

7 “In this subchapter—

8 “(1) ‘capital project’ means a project for—

9 “(A) acquiring, constructing, improving, or
10 renovating an intermodal facility that is related
11 physically and functionally to intercity bus serv-
12 ice and establishes or enhances coordination be-
13 tween intercity bus service and transportation,
14 including aviation, commuter rail, intercity rail,
15 public transportation, seaports, and the Na-
16 tional Highway System, such as physical infra-
17 structure associated with private bus operations
18 at existing and new intermodal facilities, includ-
19 ing special lanes, curb cuts, ticket kiosks and
20 counters, baggage and package express storage,
21 employee parking, office space, security, and
22 signage; and

23 “(B) establishing or enhancing coordina-
24 tion between intercity bus service and transpor-
25 tation, including aviation, commuter rail, inter-

1 city rail, public transportation, and the Na-
2 tional Highway System through an integrated
3 system of public transportation information.

4 “(2) ‘commuter service’ means service designed
5 primarily to provide daily work trips within the local
6 commuting area.

7 “(3) ‘intercity bus service’ means regularly
8 scheduled bus service for the general public which
9 operates with limited stops over fixed routes con-
10 necting two or more urban areas not in close prox-
11 imity, which has the capacity for transporting bag-
12 gage carried by passengers, and which makes mean-
13 ingful connections with scheduled intercity bus serv-
14 ice to more distant points, if such service is available
15 and may include package express service, if inci-
16 dental to passenger transportation, but does not in-
17 clude air, commuter, water or rail service.

18 “(4) ‘intermodal passenger facility’ means pas-
19 senger terminal that does, or can be modified to, ac-
20 commodate several modes of transportation and re-
21 lated facilities, including some or all of the following:
22 intercity rail, intercity bus, commuter rail, intra-city
23 rail transit and bus transportation, airport limousine
24 service and airline ticket offices, rent-a-car facilities,

1 taxi, private parking, and other transportation serv-
2 ices.

3 “(5) ‘local governmental authority’ includes—

4 “(A) a political subdivision of a State;

5 “(B) an authority of at least one State or
6 political subdivision of a State;

7 “(C) an Indian tribe; and

8 “(D) a public corporation, board, or com-
9 mission established under the laws of the State.

10 “(6) ‘owner or operator of a public transpor-
11 tation facility’ means an owner or operator of inter-
12 city-rail, intercity-bus, commuter-rail, commuter-bus,
13 rail-transit, bus-transit, or ferry services.

14 “(7) ‘recipient’ means a State or local govern-
15 mental authority or a nonprofit organization that re-
16 ceives a grant to carry out this section directly from
17 the Federal government.

18 “(8) ‘Secretary’ means the Secretary of Trans-
19 portation.

20 “(9) ‘state’ means a State of the United States,
21 the District of Columbia, Puerto Rico, the Northern
22 Mariana Islands, Guam, American Samoa, and the
23 Virgin Islands.

24 “(10) ‘urban area’ means an area that includes
25 a municipality or other built-up place that the Sec-

1 “(1) A grant shall not exceed 50 percent of the
2 net project cost, as determined by the Secretary.

3 “(2) The portion of the net costs of an eligible
4 project that is not funded under this section shall be
5 from an undistributed cash surplus, a replacement
6 or depreciation cash fund or reserve, or new capital
7 and may include up to 30 percent from amounts ap-
8 propriated to or made available to a department or
9 agency of the Federal government that are eligible
10 to be expended for transportation.

11 “(d) REGULATIONS.—The Secretary may issue regu-
12 lations necessary to carry out this section.

13 **“§ 5575. Funding**

14 “(a) MASS TRANSIT ACCOUNT.—

15 “(1) FUNDING.—To carry out this Subchapter,
16 there is authorized to be appropriated for each of
17 fiscal years 2005 through 2009 from the Mass Tran-
18 sit Account of the Highway Trust Fund the amounts
19 made available under section 5338(a)(2)(O) of this
20 title.

21 “(2) CONTRACTUAL OBLIGATIONS.—A grant
22 approved by the Secretary of Transportation that is
23 financed with amounts made available under sub-
24 section (a) of this section is a contractual obligation

1 of the United States Government to pay the Govern-
2 ment's share of the cost of the project.

3 “(b) HIGHWAY ACCOUNT.—

4 “(1) There is authorized to be appropriated
5 from the Highway Trust Fund (other than the Mass
6 Transit Account) to carry out this subchapter
7 \$10,000,000 for each of fiscal years 2005 through
8 2009.

9 “(2) The funding made available under para-
10 graph (1) of this subsection shall be available for ob-
11 ligation in the same manner as if such funds were
12 apportioned under chapter 1 of title 23 and shall be
13 subject to any obligation limitation imposed on
14 funds for Federal-aid highways and highway safety
15 construction programs.

16 “(c) PERIOD OF AVAILABILITY.—Amounts made
17 available by subsection (a) of this section shall remain
18 available until expended.”.

19 (b) CONFORMING AMENDMENT.—The table of con-
20 tents for chapter 55 of title 49, United States Code, is
21 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.”.

1 **TITLE IV—FEDERAL AID IN**
2 **SPORT FISH RESTORATION**
3 **ACT AMENDMENTS**

4 **SEC. 4101. AMENDMENT OF FEDERAL AID IN FISH RES-**
5 **TORATION ACT.**

6 Except as otherwise expressly provided, whenever in
7 this title an amendment or repeal is expressed in terms
8 of an amendment to, or repeal of, a section or other provi-
9 sion, the reference shall be considered to be made to a
10 section or other provision of the Act entitled “An Act to
11 provide that the United States shall aid the States in fish
12 restoration and management projects, and for other pur-
13 poses,” approved August 9, 1950 (64 Stat. 430; 16 U.S.C.
14 777 et seq.).

15 **SEC. 4102. AUTHORIZATION OF APPROPRIATIONS.**

16 Section 3 (16 U.S.C. 777b) is amended—

17 (1) by striking “the succeeding fiscal year.” in
18 the third sentence and inserting “succeeding fiscal
19 years.”; and

20 (2) by striking “in carrying on the research
21 program of the Fish and Wildlife Service in respect
22 to fish of material value for sport and recreation.”
23 and inserting “to supplement the 55.3 percent of
24 each annual appropriation to be apportioned among

1 the States, as provided for in section 4(b) of this
2 Act.”.

3 **SEC. 4103. DIVISION OF ANNUAL APPROPRIATIONS.**

4 Section 4 (16 U.S.C. 777c) is amended—

5 (1) by striking subsections (a) through (d) and
6 redesignating subsections (e), (f), and (g) as sub-
7 sections (b), (c), and (d);

8 (2) by inserting before subsection (b), as redес-
9 igned, the following:

10 “(a) IN GENERAL.—For fiscal years 2004 through
11 2009, each annual appropriation made in accordance with
12 the provisions of section 3 of this Act shall be distributed
13 as follows:

14 “(1) COASTAL WETLANDS.—18 percent to the
15 Secretary of the Interior for distribution as provided
16 in the Coastal Wetlands Planning, Protection, and
17 Restoration Act (16 U.S.C. 3951 et seq.).

18 “(2) BOATING SAFETY.—18 percent to the Sec-
19 retary of Homeland Security for State recreational
20 boating safety programs under section 13106 of title
21 46, United States Code.

22 “(3) CLEAN VESSEL ACT.—1.9 percent to the
23 Secretary of the Interior for qualified projects under
24 section 5604(c) of the Clean Vessel Act of 1992 (33
25 U.S.C. 1322 note).

1 “(4) BOATING INFRASTRUCTURE.—1.9 percent
2 to the Secretary of the Interior for obligation for
3 qualified projects under section 7404(d) of the
4 Sportfishing and Boating Safety Act of 1998 (16
5 U.S.C. 777g–1(d)).

6 “(5) NATIONAL OUTREACH AND COMMUNICA-
7 TIONS.—1.9 percent to the Secretary of the Interior
8 for the National Outreach and Communications Pro-
9 gram under section 8(d) of this Act. Such amounts
10 shall remain available for 3 fiscal years, after which
11 any portion thereof that is unobligated by the Sec-
12 retary for that program may be expended by the
13 Secretary under subsection (b) of this section.

14 “(6) SET-ASIDE FOR EXPENSES FOR ADMINIS-
15 TRATION OF THIS CHAPTER.—

16 “(A) In general.—2.1 percent to the Sec-
17 retary of the Interior for expenses for adminis-
18 tration incurred in implementation of this Act,
19 in accordance with this section, section 9, and
20 section 14 of this Act.

21 “(B) APPORTIONMENT OF UNOBLIGATED
22 FUNDS.—If any portion of the amount made
23 available to the Secretary under subparagraph
24 (A) remains unexpended and unobligated at the
25 end of a fiscal year, that portion shall be appor-

1 tioned among the States, on the same basis and
2 in the same manner as other amounts made
3 available under this Act are apportioned among
4 the States under subsection (b) of this section,
5 within 60 days after the end of that fiscal year.
6 Any amount apportioned among the States
7 under this subparagraph shall be in addition to
8 any amounts otherwise available for apportion-
9 ment among the States under subsection (b) for
10 the fiscal year.”;

11 (3) by striking “of the Interior, after the dis-
12 tribution, transfer, use, and deduction under sub-
13 sections (a), (b), (c), and (d), respectively, and after
14 deducting amounts used for grants under section 14,
15 shall apportion the remainder” in subsection (b), as
16 redesignated, and inserting “shall apportion 55.3
17 percent”;

18 (4) by striking “per centum” each place it ap-
19 pears in subsection (b), as redesignated, and insert-
20 ing “percent”;

21 (5) by striking “subsections (a), (b)(3)(A),
22 (b)(3)(B), and (c)” in paragraph (1) of subsection
23 (d), as redesignated, and inserting “paragraphs (1),
24 (3), (4), and (5) of subsection (a)”;

25 (6) by adding at the end the following:

1 “(e) TRANSFER OF CERTAIN FUNDS.—Amounts
2 available under paragraphs (3) and (4) of subsection (a)
3 that are unobligated by the Secretary after 3 fiscal years
4 shall be transferred to the Secretary of Homeland Security
5 and shall be expended for State recreational boating safety
6 programs under section 13106(a) of title 46, United
7 States Code.”.

8 **SEC. 4104. MAINTENANCE OF PROJECTS.**

9 Section 8 (16 U.S.C. 777g) is amended—

10 (1) by striking “in carrying out the research
11 program of the Fish and Wildlife Service in respect
12 to fish of material value for sport or recreation.” in
13 subsection (b)(2) and inserting “to supplement the
14 55.3 percent of each annual appropriation to be ap-
15 portioned among the States under section 4(b) of
16 this Act.”; and

17 (2) by striking “subsection (e) or (d) of section
18 4” in subsection (d)(3) and inserting “paragraph (5)
19 or (6) of section 4(a)”.

20 **SEC. 4105. BOATING INFRASTRUCTURE.**

21 Section 7404(d)(1) of the Sportfishing and Boating
22 Safety Act of 1998 (16 U.S.C. 777g-1(d)(1)) is amended
23 by striking “section 4(b)(3)(B)” and inserting “section
24 4(a)(4)”.

1 **SEC. 4106. REQUIREMENTS AND RESTRICTIONS CON-**
2 **CERNING USE OF AMOUNTS FOR EXPENSES**
3 **FOR ADMINISTRATION.**

4 Section 9 (16 U.S.C. 777h) is amended—

5 (1) by striking “section 4(d)(1)” in subsection
6 (a) and inserting “section 4(a)(6)”; and

7 (2) by striking “section 4(d)(1)” in subsection
8 (b)(1) and inserting “section 4(a)(6)”.

9 **SEC. 4107. PAYMENTS OF FUNDS TO AND COOPERATION**
10 **WITH PUERTO RICO, THE DISTRICT OF CO-**
11 **LUMBIA, GUAM, AMERICAN SAMOA, COMMON-**
12 **WEALTH OF THE NORTHERN MARINA IS-**
13 **LANDS, AND VIRGIN ISLANDS.**

14 Section 12 (16 U.S.C. 777k) is amended by striking
15 “in carrying on the research program of the Fish and
16 Wildlife Service in respect to fish of material value for
17 sport or recreation.” and inserting “to supplement the
18 55.3 percent of each annual appropriation to be appor-
19 tioned among the States under section 4(b) of this Act.”.

20 **SEC. 4108. MULTISTATE CONSERVATION GRANT PROGRAM.**

21 Section 14 (16 U.S.C. 777m) is amended—

22 (1) by striking so much of subsection (a) as
23 precedes paragraph (2) and inserting the following:

24 “(a) IN GENERAL.—

25 “(1) AMOUNT FOR GRANTS.—For each of fiscal
26 years 2004 through 2009, 0.9 percent of each an-

1 nual appropriation made in accordance with the pro-
2 visions of section 3 of this Act shall be distributed
3 to the Secretary of the Interior for making
4 multistate conservation project grants in accordance
5 with this section.”;

6 (2) by striking “section 4(e)” each place it ap-
7 pears in subsection (a)(2)(B) and inserting “section
8 4(b)”;

9 (3) by striking “Of the balance of each annual
10 appropriation made under section 3 remaining after
11 the distribution and use under subsections (a), (b),
12 and (c) of section 4 for each fiscal year and after
13 deducting amounts used for grants under subsection
14 (a)—” in subsection (e) and inserting “Of amounts
15 made available under section 4(a)(6) for each fiscal
16 year—”.